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Francis THE Hargrave.

RIGHT
OF
SUCCESSION
TO THE
Kingdom of England,
In Two BOOKS;
Againſt the Sophiſms of *Parſons* the *Jeſuite*,
Who aſſum'd the Counterfeit Name of
DOLEMAN;
By which he endeavours to overthrow not only the Rights of SUCCESSION in KINGDOMS, but alſo the Sacred Authority of KINGS themſelves.

Written Originally in LATIN above 100 Years ſince, by the Eminently Learned and Judicious Sir *THOMAS CRAIG* of *Riccartoun*, the *Celebrated* Author of the *Jus Feudale*, and now Faithfully Tranſlated into ENGLISH, with a Large Index of the Contents, and a Preface by the Tranſlator, giving an account of the Author and of his Adverſary.

Οἱ δὲ πολῖται αὐτοῦ ἐμίσουν αὐτὸν, καὶ ἀπέστειλαν πρεσβείαν ὀπίσω αὐτοῦ, λέγοντες, οὐ θέλομεν τοῦτον βασιλεῦσαι ἐφ ὑμᾶς. Luk. xix. 14.

Si Genus humanum & mortalia temnitis arma,
At ſperate deos memores fandi atque nefandi.
Virgil. Æneidos, lib. 1.

London, Printed by *M. Bennet*, for *Dan. Brown* without *Temple-Bar*; *Cha. Brome*, at the *Gun* at the *Weſt* end of St. *Paul's Church-Yard*; *Geo. Sawbridge*, at the 3 *Flower de luces* in little *Britain*; *J. Hartley*, in *Holborn*; and *Geo. Strahan*, at the *Golden-Ball* over againſt the *Royal-Exchange* in *Cornhill*. 1703.

MACMANIGAL
NAYSAN

THE KINGDOM OF EDINBURGH

IN THE DAYS OF QUEEN ELIZABETH

TO THE

Honourable and moſt Learned,

The Dean and Faculty

OF

Advocates at *EDINBURGH.*

Honourable and worthy Gentlemen,

THis Treatiſe, compos'd by an Eminently Learned Man of your Profeſſion and Faculty, being now tranſlated into *Engliſh*, that it may be the more generally uſeful in *Britain*, againſt the worſt principles and ſophiſtry even of the Jeſuites themſelves, ſeems naturally to claim your Patronage. The extraordinary veneration which all of you profeſs for the Memory of its great Author, the [a] *Juſtinianus Scotus*, and your juſt eſteem of his profound Learning, whereby he became an Ornament not only to his Profeſſion and Country, but even to the Republick of Learning it ſelf, encourage me to hope for your favourable acceptance of my Labours in making this Genuine work of his publick. You are the moſt Competent vouchers for, and the beſt Judges of the true worth of the Famous Author of the *Jus Feudale*, ſo highly celebrated both at home and abroad; whence not only all your ingenious Students of Law receive great advantages; But even the greateſt Maſters in your Noble Science, and the Honourable and Grave Senators of the College of Juſtice, do not think it beneath

[a] Præfatio ad Jus Feudale. ibi Collatio modeſte inſtituitur inter *Juſtinianum* & *Craigium.*

beneath them to appeal to that Oracle of the *Feudal Law*. 'Twould therefore be preſumption in me to offer at his Character in an Addreſs to you; Your own Great *Mackenzie* hath preſented you with it in a conciſe *Roman* manner, among the Characters of ſome others of your Great men, as follows, *Ipſe etiam* Craigius *tam recondita doctrina auctus erat, ut Eloquentiam vix ſperare poſſit; Ejus tanta in foro Authoritas ut Eloquentia non indigeret, & trunco (non Frondibus) effecit Umbram.*

This Book was written in Defence of our King *James* the Sixth's Right of Succeſſion to the Crown of *England*. His moſt Juſt and undoubted Right was towards the end of Queen *Elizabeth*'s reign, boldly oppos'd by *Parſons* the Jeſuite under the Counterfeit Name of *Doleman*, in Conſert, as ſome Popiſh Authors [b] themſelves thought, with that Society, which hath diſtinguiſh'd it ſelf by laying down ſuch Principles and advancing ſuch Doctrines, as not only directly overthrow the Rights and Authority of Sovereign Princes, but at the ſame time ſerve to kindle the flames of Sedition and Rebellion, and to involve all Kingdoms in Blood and Deſtruction. The Great *Craig* generouſly undertook the Defence of his Royal Maſter's Right, againſt that Champion of the Jeſuites and all his Adherents; which Province, as all Learned men who have hitherto ſeen this Book agree, he has fully perform'd, not only digging up the very Foundations of ſuch impious and pernicious Doctrines, and effectually baffling their Sophiſtry and Calumnies, but alſo making ſufficient Repriſals upon his Adverſaries, and giving the true Characters of *Doleman*'s Heroes which he brought for Precedents to amuſe and impoſe upon the unwary Reader.

[b] Watſon's decacordon *or* Quodlibets.

Guil. Barclaij adverſus Monarchomachos Libri Sex. Joan. Barclaij pietas, ſive publicæ pro Regibus, & principibus, & privatæ pro ſuo G. B. parente vindiciæ.

Du-Pin de Antiq. Eccl. diſcipl. diſſert. 7.

Sir *Thomas Craig* was perhaps the beſt qualified of any in that Age for ſuch an Undertaking, he being a man of univerſal Learning, great Judgment, Obſervation and Experience, and having ſo throughly Studied the Divine Laws, the Laws of Nature and Nations, as well as the Civil, Canon, Feudal and Municipal Laws; Such were the Foundations upon which he rais'd this Noble Superſtructure, ſo cloſely Compacted together with the utmoſt Strength

of

of Reaſon, and embelliſh'd with all Hiſtory, Sacred, Ancient and Modern. He knew well both to overthrow the deceitful Fabricks which his Adverſary had rais'd upon the Sand, and to build upon a Rock with ſuitable Materials; And in this he had the advantage of many great Authors both ancient and modern, who were at a loſs either in Confuting their Adverſaries, or elſe in Eſtabliſhing the Truths, which they maintain'd.

I cannot but be very ſenſible, Honourable and Worthy Gentlemen, that notwithſtanding my beſt endeavours, to let our Countrymen of Great *Britain* have this excellent Book in their own Language, it muſt ſtill fall ſhort of the Original maſculine ſtile, in which the Author wrote it. Yet it ſeem'd neceſſary even according to his deſign, as it's evidently the *Intentio operis*, that it ſhould be in that Language (in which his Adverſaries Book was Printed, and has ever ſince been reprinted) as well as in Latine. For otherwiſe how ſhould this Sovereign Antidote have it's due effect on the Groſs of the Subjects, who have been impos'd upon, and ſeduced from their Duty by the Sophiſms of *Doleman*, and of his Followers?

I hope this Tranſlation gives the full Senſe of the Author, but in caſe of any failure it ſhall be reckon'd a great Favour, if any of you in whoſe noble Library a good Copy of the Manuſcript is lodged, ſhall think fit to admoniſh me. This Edition may at leaſt become a whet to the Ingenious and Unprejudiced, to excite their deſires for having it publiſh'd in Latine, both for the pleaſure of reading it in its Original, and for the Information of Foreigners, who are much in the Dark as to the Matters here treated of, or are led into great Miſtakes, by ſome of our own Ingenious but leſs Candid Writers.

Your Honourable Society, which needs not yield to any other in Learning, more eſpecially in the knowledge of the Civil Law (that noble Superſtructure upon the Law of Nature and Right Reaſon) conſiſts very much of Gentlemen of the greateſt birth and the moſt Liberal Educarion, in all kinds of Learning, but more particularly in all matters of Law and Juſtice, which you are obliged to Defend, Plead for and Patronize; Being ſo noble a part of the *College of Juſtice*. Such advantages enable you to be good Caſuiſts in the matters here treated of. You

have been ſtored with ſuch great Men of your Faculty, *Quibus non Ingenium ſed* Roma *defuit, at non* Scotiæ *ſed orbi Exemplaria eſſent.* And may you always have many ſuch as this Author, that is, men Eminent for Learning and Chriſtian Probity, faithful Subjects and good Patriots; In ſuch a Succeſſion of great Men, you will never want your *Ciceroes* to ſet forth the juſt praiſes of your *Hortenſii* after their death; But why ſhould I mention *Cicero* and *Hortenſius*? You have greater Names than theirs, your *Craig*, *Sharp*, *Hope*, the *Nicholſons*, *Stewart*, the *Gilmors*, *Wedderburn*, *Nisbet*, *Lockart*, *Ker*, *Cuninghame*, and the great *Mackenzie* (who hath obliged this and all Succeeding Ages by the ſuitable[a] Characters wherewith he has adorn'd them, which are not exceeded by any in the moſt admired whether *Greek* or *Roman* Authors) muſt ever be Celebrated by all Poſterity. Your Illuſtrious Faculty, by emulating ſuch Noble Examples, will always furniſh our Nation with the ableſt Senators for the Bench, Preſidents, Chancellours, and other great States men, well qualified for the Service of our Princes and Country, increaſe the Emulation of Foreigners, and entitle you to the greateſt Honours, which our moſt Gracious Sovereigns (who give ſuitable rewards to Learning and merit) confer on the worthieſt of their Subjects; For that ſaying, *dat Juſtinianus honores*, to which I may alſo add *opes*, is in no Country ſo well verified as in ours, and 'tis no doubt owing to the Extraordinary merits of the Members of your Honourable and moſt Learned Body.

I ſhall name another member of your Society, who had the Character not only of a man of great Parts, but alſo of great Probity and *indefeaſible Loyalty*, and was afterwards rais'd to the Bench, 'tis the Lord *Crimon*, who greatly oblig'd the Learned World, by taking care to publiſh this Authors Books *de Feudis*, and who in his excellent Preface to them, has, with a true Air of Chriſtian ſincerity and great Judgment, given the beſt Advices to your Students of Law; repreſenting to them what end a Chriſtian Advocate and Lawyer ought to propoſe to himſelf. By conforming to ſuch excellent Rules, you can never fail in being juſt to your Clients, well eſteem'd by all good men, having the inexpreſſible pleaſures, which accompany a good Conſcience during your mortal Lives, and of being eternally happy in *That Life which is to come*.

Give

[a] *See Part of a Speech made by the late learned Lord Advocate of* Scotland, *Sir* George Mackenzie, *in the Appendix to the* Scotiſh Hiſt. Lib. *Num.* ix.

Give me leave, when I mention your juſt praiſes, to do Juſtice in the general to other Profeſſions amongſt us, which have alſo afforded many Heroes in their different ways. *Puffendorf* [a] affirms the Nation of the *Scots* to be ſtored with moſt ingenious men. *Eſt quoque*, theſe are his Words *Scotorum gens Ingeniorum præſtantiſſimorum ferax, & maxime illuſtrium. Nam cum in Reliquis Europæ partibus, bonarum Artium diſciplina barbarie oppreſſa jaceret, diu in Scotia viguit. Quippe quæ Reliquis Gentibus Complures Doctores & Magiſtros eruditione conſpicuos, ſuppeditavit dicam an commodavit.* To name our famous divines, from the early Planting of Chriſtianity in our Country, whence other Nations receiv'd both the true Chriſtian Religion and Learning, would ſwell this dedication into a volume. Neither hath *Scotland* been leſs renown'd for military men, but as *Cluverius* obſerves, the *Scots* were *marte felices*, noble warriours. And that Character is no more than what they well deſerv'd in all Ages, in the Wars againſt the moſt powerful *Romans*, *Britains*, *Saxons*, *Picts* and *Danes*, &c. in the Juſt Defence of their own Country and Liberties, as well as abroad. Our *Bruice*, *Wallace*, *Graham*, *Duglaſs* (to name no more) acquired Immortal Honour by the Sword. I might alſo mention, our great Phyſicians, our prodigies in the Mathematicks [b] our Celebrated Hiſtorians, [c] our firſt rate Poets, Philoſophers, and Philologiſts, [d] but modeſty obliges me to ſtop here.

[a] Introduct. ad Hiſt. Europ. c. iv.

It may be expected that this Book will be the more conſidered, as being written ſo long ſince, by one free from ſuch Prejudices as all Writers on ſuch ſubjects in this Age are under, one of an exemplary Chriſtian Life and Converſation, as well as famous for his Learning. All good men muſt be deeply ſenſible, how much many Writers, eſpecially in this Age, have forgotten, that regard which is due to the Laws of the Immortal God, and to Revealed Religion, and their wicked Practice who contemn both, cannot be more effectually upbraided, nor they better Inſtructed how to behave themſelves for the future, than by reading this very Book. For our Author [a] upon all occaſions pays the moſt profound reſpect to the Laws of God as they well deſerve, and makes all his Labours ſubſervient to Juſtice and Religion. Our late traders in Political Controverſies have taken a quite other method, many of whom are known to affront Religion

[b] Napier *of* Merchiſtoun *and many others.*

[c] Dridens *life of* Plutarch. p. 56.

[d] Latinæ linguæ Cognitione maxime illuſtres *Puffendorf Introd. ad Hiſt. Europ.*

[a] Book 1. Chap. XII. *and in many other places.*

gion and the Laws of God, as well as his Vicegerents, and the Laws of their Country. God hath joyn'd the fearing and honouring Himſelf with that fear and honour which he requires of Subjects to their Princes, and it's obſervable that many who have made bold with the latter, are, as much as they dare, declared Enemies of the former. The noted Deiſt *Toland*, as I am very well inform'd, never fails at the ſame Converſation, and almoſt in the ſame breath, to attack Religion and Monarchy; which deſerves your notice, that care may be taken, leſt your Students abroad ſhould be poyſon'd with his contagious breath, as they cannot eaſily eſcape his impious Converſation.

'Tis but Juſt upon this occaſion to mention, how generouſly the Lawyers at *Edinburg* undertook to defend and protect their Epiſcopal Clergy in the latter end of the year 1688, that diſmal time of Anarchy and Confuſion, when nothing Civil or Sacred was ſafe from the violence and outrages of an impious and Sacrilegious Rabble. You ſhared in the Sufferings by the Confuſions and Convulſions of the State then, it being a never failing Axiome, *Inter arma ſilent leges.*

I thought my ſelf oblig'd to treat this moſt worthy Author with that honour which his Royal Maſter King *James* VI. conferr'd upon him, Commanding his Subjects to give him all the Reſpect due to a Knight, [b] as a Mark of his Royal Favour and Juſt eſteem; And tho' his own *uncommon Modeſty* made him decline it, yet I can never think but his Memory has a Juſt Title to it from all Poſterity.

[b] Prefat. ad Jus Feud.

I have dedicated this Tranſlation to you, as a mark of thoſe humble Reſpects, and that juſt Eſteem which I muſt always have for ſo Honourable, Learned and Worthy a Body as yours is, in the Metropolis of our Nation, For I ever am with great Reſpect

Honourable Gentlemen

Your moſt humble Servant,

J. G.

TO

TO THE

Moſt Serene Prince *JAMES* VI.

King of Scotland,

His Moſt Gracious Sovereign.

I Was far from entertaining the leaſt thought, Moſt Serene Prince, that the burden of this Controverſy againſt the perſonated *Doleman*, ſhould ever fall to my ſhare. For tho' at that Author's firſt appearance in the World, I could not but be highly concern'd at the extravagant arrogance viſible in ſo aſſuming a Writer, who, by the Lawleſs and Inſolent Liberty of his Pen, hath attempted to overthrow not only the Juſt Rights of Succeſſion, but alſo the Authority of Kings themſelves; yet I had no reaſon to doubt, but that either from *England*, which now abounds with Men of Learning, or elſe from among our ſelves, ſome perſon of greater Judgment and Knowledge would have taken him to task, and effectually expos'd and baffled his Calumnies and Sophiſtry. But when I ſaw that the *Engliſh* cover'd themſelves with their Silence, and our own Countrymen, tho' often urg'd by me even with Reproaches for their neglect, declin'd to enter the Liſts with him; and near Eight Years are paſt, ſince theſe Books of his were Publiſh'd to the World, tho' they came not to our hands ſo ſoon, I was heartily griev'd to ſee ſuch Opinions as theſe confirm'd

through length of time, and making deep impreſſions on the minds of Men, and concluded there was but too much reaſon to fear, leſt by being thus neglected, People might be impos'd upon, and ſeduc'd from their duty. Some indeed there are who have undertaken to Write againſt him, but have manag'd it after ſuch a manner, as if they deſign'd to inſult their Adverſary with Scoffs and Reproaches only, and in the mean time have left the main grounds of his Arguments wholly untouch'd. I had indeed ſome time ſince collected ſeveral reaſons, by which the Objections concerning *Foreign Birth*, and the *Laſt Will* of the moſt Potent Prince *Henry* VIII. together with other pretences of the like nature, which are commonly handed about, might be fully anſwer'd; not that I was fond of entering upon this Province, as being accumſtom'd only to Controverſies of leſſer importance: But that I might prepare ſome materials, which might be ſerviceable, and afford ſome encouragement to others, to labour upon this Argument, who were better qualify'd for it. But ſince I find others ſo backward to engage in an undertaking of this Importance, I am forc'd, tho' againſt my own natural Inclination to make theſe publick. For I muſt confeſs, that rather than this Office ſhould be wholly laid aſide, I was willing to take it upon my ſelf; being reſolv'd to the beſt of my power, to oppoſe the Petulancy of the followers of *Loyola*, as well they deſerve.

But when I had again taken into conſideration the Books which go under the Name of *Doleman*, I ſoon found the chiefeſt part of the Controverſy contain'd in the firſt of them; In which, that he may effectually exclude the True Succeſſors from the Inheritances of their Anceſtors, he imploys his utmoſt endeavours to prove this point, *viz.* That it is Lawful for the People to Dethrone and Depoſe (to ſay no worſe) even the Perſons of Kings, tho' they have been duly Recogniz'd, and are in Poſſeſſion of the Government, and have alſo had Allegiance Solemnly Sworn to them by the People; And this Doctrine he inferrs from hence, becauſe ſometimes the People have done it with Succeſs, and therefore, by his way of Reaſoning, they have done it Lawfully. To this end he advances thoſe deſtructive Principles, which ſerve to render Kings themſelves obnoxious to the judgment of the raſh unthinking

unthinking Mob, and to be insulted and trampled upon by them; and he never fails to bestow the honourable Title of the Common-Wealth, upon the Multitude, affirming them to have the strength and sinews of the Government in themselves, and consequently a power, from which there lies no appeal, of judging their Kings, and the Children of their Kings; of Chooſing Kings for themselves, or rejecting them, and of admitting or rejecting their Successors. Which made me look upon this Counterfeit *Doleman* to be some new *Tribune of the People*, lately come from the *Jesuites* Forge, who might Arrogate to himself a power, to order not only the *Prætors* and the *Censors*, but even the *Consuls* themselves to be put in Chains: For these Discourses of his perfectly resemble the Harangues of the *Roman* Tribunes, being noisy and seditious.

This one thing appears most clearly throughout the course of his whole Book, that these *Jesuites* were unanimously resolv'd to have one King set over the whole World; to wit, the King of *Spain*; being sensible that otherwise their Tenents were inconsistent, unless they took care, that as one Pope presides over all Christians in Spirituals (as they speak) so also one King should govern them all in Temporals. For their more easy attaining this end, they use their utmost industry, wherever they come, to blow up the sparks of Sedition and Rebellion, and in an especial manner sound, as it were, an Alarm to War in *Britain*; That in substituting a new King, whenever that shall happen, the People may be prepar'd to meet in Arms, and to appoint the Laws of Government: As being well assur'd, that when the minds of the inconsiderate Multitude are once put into a ferment, they may, by the means of their Emissaries, the Partisans, or rather the Incendiaries of *Loyola's* Family, be easily induc'd to receive the King of *Spain* for their Sovereign; For whom also *Doleman* has invented, with Reverence be it spoken, some sort of Title to the Succession.

But lest this might be thought the single contrivance of our Author, I shall instance in another Member of the same Society, who by the same Arguments endeavours all he can to overthrow the Rights of Succession in Kingdoms, yea and

and the Power of Kings themſelves. From which it may be eaſily obſerv'd, that both of them have been train'd up in the ſame School, and when a Man knows one of them perfectly, he knows them all. 'Tis *John Mariana*, the Lateſt Writer of the Spaniſh Hiſtory, who in that Speech, which he falſely attributes to *Francis de Avalo*, makes uſe of theſe words; [a] *The Nature of the Royal Dignity is a ſufficient proof that Kingdoms may be chang'd by the conſent of the Nation, and New Kings appointed; Becauſe taking their riſe from the pleaſure of the Multitude, according to the exigency of affairs, they may be transferr'd to others: Neither was another Originally ſubſtituted into the place of the Deceas'd King, by any Hereditary Right, but by the Will of the People; and he who was to Command them all, was Choſen by all. It was from the exceſſive power of Kings, that Children, not only of corrupt manners, but alſo of a tender Age have Succeeded to their Parents; and that, which ought to be the reward of Vertue, is obtain'd*, ſays he, *without any kind of Merit.* This, after *Doleman*'s way, he teaches by the worſt Precedents, and he encourages *Ferdinand* the Uncle to poſſeſs himſelf of the Kingdom, and drive out *John* his Eldeſt Brother's Son. Which reaſons alſo *Doleman* makes uſe of word for word, when he aſſerts the Right of the *Lancaſtrian* Family in oppoſition to that of *York.* All which, and a great deal more are afterwards repeated by the ſame *Mariana*, when after the Death of King *Martin*, they had under deliberation the ſubſtitution of a New King of *Aragon.* [b] By theſe Torches, to wit, the plauſible reaſoning of ſuch Diſcourſes, both theſe *Jeſuites* endeavour to inflame the minds of the Common People, and to put them upon making Innovations in the State. But, as the ſame *Mariana* ſays, *Qui ſanari non poſſunt, ferro exſcindendi, They who are not to be cured oherwiſe, are to be cut off with the Sword.* Nor can any thing ſecure the ſafety of Civil Societies againſt that kind of Men but a timely ſeverity; neither ſhall any Government be in Peace, in which they are ſuffer'd to intermeddle; for they are the moſt certain Peſts of all Kingdoms and States. As for my ſelf, I have endeavour'd as I could, and according to my poor Abilities, in this ſmall work, to detect their Impieties and Impoſtures, but whether I have done it effectually,

[a] Mariana. Lib. 19. Cap. 15. De Rebus Hiſpaniæ.

[b] Lib. 20. Cap. 3. De rebus Hiſpaniæ.

effectually, or fail'd in my attempt, I leave to others to judge. I was indeed desirous to Dedicate these my Labours, such as they are, to your Majesty, that being illustrated with your Rays, they might be the better able to endure the Light, and the rather for this reason, because they were undertaken in Defence of your Majesty's Right. And I therefore most humbly beseech your Majesty to take them in good part, at least upon that account: For as the Poet says, *Dij majores non minus farre pro & saliente mica quam solidis hecatombis placantur.* That God Almighty may ever preserve your Majesty in Safety, and make you always Prosperous, is the hearty Prayer of

Edinburg, January
the First, 1603.

Your Majesty's

Most Devoted Subject
and Servant,

T. CRAIG.

THE TITLES OF THE CHAPTERS OF THE First BOOK.

CHAP. I.

Contains a proœmial Discourse about the manner of handling Controversies, in matters of great Importance, with the Author's design, and the occasion of this work. Page 1.

CHAP. II.

Monarchy is the most Ancient, and the Best of all Governments. p. 5.

CHAP. III.

Monarchy proceeds from the Law of Nature, and is much more agreeable to it, than any other form of Civil Government. p. 11.

CHAP. IV.

By the Law of Nations, and the Municipal Law, Monarchy hath always, and every where been receiv'd, and ought to be maintain'd. Some Sentences of the Doctors concerning its Excellency and Advantages. p. 17.

CHAP. V.

Concerning Election, and the Advantages that attend it. p. 22.

CHAP. VI.

Of the Inconveniencies which usually preceed the Election of a New King. p. 29.

CHAP. VII.

Of the Inconveniencies which commonly happen at the time of an Election, and at the meetings which are call'd for the Electing a New King. p. 43.

CHAP. VIII.

Concerning the Inconveniencies which follow an Election after it's over. p. 61.

CHAP. IX.

A King by Election compar'd with a King who Inherits his Kingdom by the right of Succession. p. 70.

CHAP. X.

All the Arguments brought before for Election, are here Answer'd. p. 78.

CHAP. XI.

Concerning the Calamities which have befallen Kingdoms and States for rejecting or passing by the True Heir. p. 85.

CHAP. XII.

Whether the Succession of Kingdoms was Instituted by God himself, and proceeded from Divine Right. p. 96.

CHAP. XIII.

Whether Hereditary Succession in Kingdoms flow'd from the Natural Law. p. 107.

CHAP.

The Titles of the Chapters of the First Book.

CHAP. XIV.

Succession in a Kingdom is from the Law of Nations, and from the Civil Law. p. 112.

CHAP. XV.

Neither the Prince nor the People can by any Statute take away the Hereditary Succession of a Kingdom, that rightfully belongs to any person. p. 120.

CHAP. XVI.

The most Serene Queen of England *cannot by any priviledge (if any be granted her by the Estates of the Kingdom, for naming her Successor) invert or destroy the right of the True Heir.* p. 130.

CHAP. XVII.

A Confutation of the first Chapter of Doleman's *Book, in which he asserts,* That Succession to Government by nearness of Blood is not by the Law of Nature and Divine, but only by Humane and positive Laws of every Common-Wealth; *and his Positions,* That Kings have their Power from the People, *and* that Kingdoms are not Patrimonial, but consist in the bare Administration. p. 143.

CHAP. XVIII.

A Confutation of those things which are brought by Doleman *concerning Monarchy, and the different Forms and Laws of Common-Wealths.* p. 160.

CHAP. XIX.

Tho' several Kings had been Chastised by their Common-Wealths, and Dethron'd for their Misgovernment, with prosperous Success to the Common-Wealth, yet this makes nothing for Doleman's *Proposition.* p. 167.

CHAP. XX.

A refutation of the Fourth and Fifth Chapters of Doleman's *First Part, in which he maintains the Lawfulness of Chastising and Dethroning Kings for Misgoverning the Common-Wealth.* p. 183.

CHAP. XXI.

The Rights of Succession are consider'd, and Doleman's *opinion,* That in the Succession of a Kingdom, Right is not sufficient, *is confuted.* p. 207.

CHAP. XXII.

A Confutation of Doleman's IX. *Chapter,* of the things that ought to be respected, in admitting or rejecting the Succession, *and a detection of that Counterfeit Author's Impiety.* p 224.

The TITLES of the CHAPTERS OF THE Second BOOK.

CHA. P I.

OF *the* Jus proprium, *or Municipal Law of the Kingdom of* England, *and who should by that Law be call'd to the Succession of that Kingdom.* p. 245.

CHAP. II.

Concerning the Law about Foreign-Birth, *and its rise or beginnings, and the reason why it is an obstacle in the Succession of private Persons, but not in the Succession of the Crown.* p. 252.

CHAP. III.

The Statute of Edward III. *extends not to any other* Foreigners, *but only to such as are Born* beyond Sea. p. 258.

CHAP.

The Titles of the Chapters of the Second Book.

CHAP. IV.

'Twas provided by a ſpecial Statute of England, that the Scots ſhould not be reputed ſtrangers, or of Foreign Birth; but that they ſhould have the benefit and privileges of the ſame Laws with the Engliſh. p. 265.

CHAP. V.

The King's Children are excepted by the expreſs words of that Statute of Edward III. and wherever Born they ought to ſucceed their Anceſtors. p. 273.

CHAP. VI.

By the words of the ſame Statute, and conſtant cuſtom, ſuch as were Born out of the Ligeance of England, and even beyond Sea, have been admitted to inherit the Crown, and ought to be admitted to their Inheritance. p. 278.

CHAP. VII.

That Foreign Birth is no hindrance in the Succeſſion of Princes, will appear from the opinion of the Engliſh themſelves in the like caſes, and from the conſtant cuſtom of other Nations. p. 286.

CHAP. VIII.

Other particular reaſons, why the exception of Foreign Birth can be no hindrance to the Succeſſion of the moſt Serene Prince, ſeeing he may be reckon'd an Engliſh man. p. 292.

CHAP. IX.

Whether ſuch as are born out of England be debarr'd from Succeſſion, Ex jure Conſuetudinario Angliæ, by the practice and cuſtom of England. p. 300.

CHAP. X.

Doleman's firſt reaſon for the right of the Family of Lancaſter, by which he aſſerts that the ſecond Son ought to be preferr'd in the Succeſſion of the Paternal Kingdom, before the Grandſon by the firſt born, Deceas'd, Confuted. p. 305.

CHAP. XI.

Doleman's ſecond reaſon for the right of the Family of Lancaſter, from the juſt and orderly depoſition of Richard II, Confuted. p. 321.

CHAP. XII.

Henry of Lancaſter was not the neareſt Heir of the Crown after Richard II. was depos'd, neither ought he to have ſucceeded to Richard, and the reſt of the reaſons brought by Doleman for the right of the Family of Lancaſter, are confuted. p. 334.

CHAP. XIII.

All the objections that are made by Doleman againſt the right and title of the moſt Serene Prince King James VI. to the Crown of England, are fully confuted. p. 341.

CHAP. XIV.

All the Arguments which are brought by Doleman, for the right of the Infanta Iſabella Clara Eugenia, Wife to the Arch-Duke of Auſtria, and Daughter of Philip II. King of Spain, to the Succeſſion of the Crown of England, are examin'd and confuted. p. 360.

CHAP. XV.

The pretenſions of the Line of Portugal and Caſtile, are examin'd and confuted, and the moſt Serene King of Scotland, prov'd to a Demonſtration to be the chief Prince and Heir of both the Families, as well of Lancaſter, as of York. p. 371.

CHAP. XVI.

Whether or no the Government and Adminiſtration of a Natural Prince in a Kingdom be more expedient than that of a Foreigner. p. 386.

CHAP. XVII.

Whether it be expedient that a Succeſſor be nominated, during the life of a King, or not. p. 399.

CHAP. XVIII.

A Paræneſis or Addreſs to England, to lay hold of the benefit of the preſent occaſion, and to agree to the concord of all Britain. p. 411.

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PREFACE.

WHEN a Book Written above a Century ago, comes after so long a time to see the Light, some account may reasonably be expected to be given, why it was not sooner publish'd, and why now; These, with some few things more, with Relation to the Author, and this work of his, and to his Adversary in this Controversy, which, with submission, are thought may prove to the Readers satisfaction, fall properly under our consideration. And yet in the first place, why this Learned Treatise was not publish'd immediately after it receiv'd its great Author's last hand, which was in the Year of God, 1602, we are left rather to our own conjectures, at so great a distance, than guided by any certain accounts that we could ever meet with. 'Twill doubtless seem very strange, that so Elaborate a work, perform'd by so masterly a hand, in an affair of so great consequence and against a very shrewd Adversary, should not have appear'd abroad in such a critical juncture; especially seeing it was undertaken, not only in defence of the just rights of Monarchy and of the Constitution of England, but of the undoubted Right of Succession to the Crown of that Kingdom, which belong'd to his Royal Master King James the Sixth of Scotland, and soon after the first of Great Britain. And which may yet raise our Admiration, seeing it was Written, as may be suppos'd, at his desire, as it was Dedicated to him, who was a competent Judge both of Men and Books, and who bestow'd no inconsiderable marks of his esteem and favour upon the Author, as shall be shewn in its proper place; That a King, I say, who was by far the learnedst among the Sovereigns of that Age, and perhaps of any Age before that, who spoke and wrote concerning Government so wisely and fairly, who understood this Controversy, in which he himself was chiefly concern'd, so throughly, and who knew so well the great Accomplishments and Probity of this Author, and the sufficiency and usefulness of his performance, should not have order'd the Publication of this Book, wherein not only his own just Right and Authority, but also the Sacred Authority of all Kings in general is so Learnedly asserted, and so fully vindicated.

The reason commonly given for that omission is, That the peaceable accession of King James the Sixth to the Crown of England, render'd the publication of this Book at that time less necessary; and this perhaps is the best and truest account of this matter. For soon after this Book was finish'd, Queen Elizabeth declar'd her Cousin the King of Scots her undoubted Heir and lawful Successor; and all the Estates of England, in full Parliament Assembled, most heartily and unanimously recogniz'd his Right to the Crown of that Kingdom, in that Act, Entituled,

A moſt Joyful and Juſt Recognition, of the immediate, Lawful and undoubtful Succeſſion, Deſcent and Right of the Crown, *Anno Jacobi Regis primo.*

The Recognition is as follows:

We upon the bended Knees of our Hearts, do Agnize our moſt Conſtant Faith, Obedience and Loyalty to Your Majeſty, and Your Royal Progeny, as in this High Court of Parliament, where all Your whole Body of the Realm, and every particular Member thereof, either in Perſon, or by Repreſentation (upon their own free Elections) are by the Laws of this Realm deem'd to be Perſonally preſent.

And after ſome particular Acknowledgments, and Expreſſions of their thankfulneſs to Almighty God upon that great occaſion, is added,

And in moſt Humble and Loyal manner we do beſeech Your Majeſty, that (as a Memorial to all Poſterities, among the Records of Your High Court of Parliament for ever to endure, of our Loyalty, Obedience, and hearty and humble Affection) it may be Publiſh'd and Declar'd in this High Court of Parliament, and Enacted by the Authority of the ſame, that we (being bounden thereunto both by the Laws of God and Man) do Recognize and Acknowledge (and thereby expreſs our unſpeakable Joys) that immediately upon the Diſſolution and Deceaſe of *Elizabeth* late Queen of *England*, the Imperial Crown of the Realm of *England*, and of all the Kingdoms, Dominions and Rights belonging to the ſame, did by Inherent Birth-Right, and Lawful and undoubted Succeſſion, deſcend and come to Your Majeſty, as being Lineally, Juſtly, and Lawfully next and Sole Heir of the Blood Royal of this Realm, *&c.* And thereunto we moſt Humbly and Faithfully do ſubmit our ſelves, our Heirs and Poſterities for ever, until the laſt drop of our Bloods be ſpent.

This memorable Act of Parliament, and the Submiſſion, Loyal and Dutiful behaviour of the whole body of the Subjects of England, *to the true Heir of the Crown, as it will for ever remain an eminent Inſtance of the Juſtice, Honour,*

and

and Loyalty of the Engliſh *Nation, ſo it was at that time ſo full and effectual a Confutation of* Doleman's *falſe and pernicious Principles and Cavils in relation to the Succeſſion, and of the pretenſions of ſuch Competitors, as that Jeſuite conjured up to overthrow the Right of the true Heir, that it could hardly enter into any body's thought then, that ever ſuch Anti-Chriſtian Doctrines ſhould be again reviv'd. That Queſtion was fully decided by the proper Judges, without one diſagreeing Vote, and their determination was agreeable to, and founded upon the Laws of God, Nature, and Nations, and the Common and Municipal Laws and Fundamental Conſtitution of the Kingdom, which is the thing that Sir* Thomas Craig *pleads for throughout his whole Book. So the end being attain'd, there ſeem'd to be little or no place left for ſuch means as were entirely deſign'd for compaſſing it. That wiſe King might likewiſe be of opinion, that the beſt Confutation of that Incendiaries Book was to have it ſlighted, that it would ſoon be forgotten, and die of its ſelf, and that it could not be of any dangerous conſequence, either to himſelf, or his Poſterity. This was no wiſe unreaſonable for him to think at that time, when his Subjects did ſo juſtly and generally ſhow their abhorrence both of the Counterfeit Author, and his moſt wicked Principles. For they were not only ſhocking to the Church of* England, *but even diſown'd by almoſt all other Proteſtants within his Dominions, who had not then Learn'd to take up with the Morals or Principles of the Jeſuites. Nay Father* Watſon, *tho' a Prieſt of the Church of* Rome, *Wrote ſharply againſt* Doleman, *in his* Decacoron, *or* Quodlibets. *And ſuch deſtructive Doctrines of the Jeſuites have been Learnedly oppos'd by the ſounder part of the Learned Writers of the Church of* Rome *herſelf, ſuch as* Barclay, *Father and Son,* Blackwood, Arniſæus, *and many others, and in this Age by the Learned and Induſtrious* Du Pin, De Antiqua Eccleſiæ Diſciplina, Diſſertatione ſeptima.

'Tis no new opinion, that even the beſt anſwer to ſome very ill Books is to ſlight them, for ſome of the Ancient Fathers, are ſaid to have reckon'd the Confutation of ſome of the groſſer Errors and Blaſphemies of vile impure Hereticks, was better let alone than publiſh'd to the World: For the Reading the Impieties and Calumnies of an Adverſary, even in a Book, wherein they are ſufficiently expos'd and baſled, is ſome ſort of violation offer'd, to the nice and tender thoughts of honeſt Readers, and the Objections may ſtick with the weaker and unwary, when they come to forget the Anſwers to them.

The laſt reaſon I ſhall offer for the Publication of this Book's being delay'd is, that the Author did not long ſurvive the finiſhing of it, and tho' he wrote ſeveral other Books with deep Learning and Judgment, yet none of them were publiſh'd in his own life time, his incomperable Jus Feudale *was not Printed before the Year of* God, 1655. *about Twenty Seven Years after his Death, and his Book* De Hominio, *not before the Year* 1695. *His Book* De Unione Regnorum *is not as yet Printed, nor that* De Origine Scotorum. *Whether it was owing to the cuſtom of that Age, (when there were but few Preſſes in compariſon with the great numbers of them now) or that Learned Men were ſatisfied with having good Books in Manuſcript, or whether it was another Inſtance of the Author's* uncommon *Modeſty, I ſhall not take upon me to determine. Only it would ſeem that he was not very forward to appear in Print (tho' his Pen was equal to any Writer's in that Age) For he tells the King, that it was againſt his own Inclination to enter upon that Controverſy againſt* Doleman. *Nevertheleſs the flame of Chriſtian Zeal for Truth and Juſtice, wherewith his great Soul was fir'd, made him at laſt enter fully into the merits of that cauſe, ſearch it to the very bottom, and diſplay its moſt hidden receſſes.*

But could King James *have foreseen what follow'd, he had infallibly taken care that his Subjects should have been provided with this Sovereign Antidote against the Poison of* Doleman's *most Wicked Principles, wherewith they were soon after his Death infected. For that Jesuites damnable and destructive Doctrines were most industriously reviv'd in the Reign of his Son and immediate Successor King* Charles I. *cultivated and improv'd to justify that most wicked and fatal Rebellion against him. The Book it self was Re-Printed in several forms, and was the store-house, whence the Rebels and Regicides fetch'd their Arguments and Precedents (tho' very wicked ones) for taking Arms against Lawful Kings duely Recogniz'd and Invested, for Chastising, Dethroning, and even Murdering their Sacred Persons.*

Before the Murder of King Charles *the First, care was taken by those execrable Blood-hounds, to have* Doleman *Re-Printed, under the Title of* Several Speeches deliver'd at a Conference, concerning the Power of Parliaments to proceed against their King for Mis-Government, by *Rob. Ibbotson* in *Smithfield. The King, as the Author of the* Athenæ Oxonienses *tells us, in his Message for Peace, doth mention and insist upon that Book, call'd* Several Speeches, *and* William Prinne *in his Speech to the Committee,* December 4. 1648. *affirm'd, That he himself and others did complain of it, but nothing was done to Vindicate the Houses from that gross Imputation,* &c. Doleman *was not without reason, said to be the Gospel of* Cromwell *and* Bradshaw, *and is still the Oracle of ill designing Men, the Idol of State Innovators and Republicans; To this very Book of his,* Britain *owes in a great measure the Grievous Calamities, in which both its Princes and People have been involv'd, with that Load of Guilt and Scandal it still groans under. How much the Regicides were beholden to* Doleman's *Book, appears from that long Speech of* John Bradshaw, *spoken at the Condemnation of that Royal Martyr King* Charles I. *it being taken from thence; and also the Treatise concerning the broken Succession of the Crown of* England, *&c. to make way for* Oliver *the Usurper, was mostly borrowed out of the same Book, as is to be seen in the Learned Doctor* Hicks's *Sermon on the 30th of* January 168½. *before the Lord Mayor of* London. *And indeed most of the Seditious Pamphlets of that time, were but so many Scraps, or imperfect Editions of* Doleman.

But considering the fatal Consequences of that Rebellion, (which made this Noble Island of Britain *such a dismal Scene of Blood, Destruction and Miseries, to the great Scandal of our most holy Religion, as it was fatal to all Ranks of the People; it might have been hop'd that we should at last have grown Wiser, by such Tragical and so recent Examples. And indeed almost the whole body of the Subjects, began to call aloud for their old Constitution again, even before the Chains which that Usurpation had put upon the People, were quite broken, and the Rebells themselves seem'd to be wearied with their own Villanies, and no lasting Peace, or Repose from most dreadful Calamities, could be expected, but in the Restauration of the Royal Family, and the Ancient Constitution of their Monarchy. The Ship of the Common-Wealth of* Britain *could not be deliver'd from those dreadful Hurricanes of unnatural Civil Wars, until it should get into that safe Harbour. When that happy time came (in which the hand of God was visible, by turning the Hearts of the King's Enemies to favour his Restauration, and by making the very Instruments of our Miseries to contribute their endeavours for delivering us from them) then we had a plentiful return of Peace, Prosperity, and Safety. But when the Sins of these Kingdoms, and the Abuse of such Signal deliverances, provok'd God to punish us again, he suffer'd that Spirit of Rebellion to be Unchain'd, and the Leaven of* Doleman's *Doctrines, (which) as Sir* Thomas Craig *Judiciously observes) have no other tendency than the* Destruction of Kings, the Subversion of Cities, and Infinite Calamities, and

Miseries

Miſeries to all Kingdoms and States) *began to ferment afreſh. But before things could be ripen'd for a new* Catastrophe, *the King and Royal Family deſtroy'd and the Monarchy ſubverted,* Doleman *muſt needs be Reprinted. And accordingly in the Year* 1681 *out comes a New Edition of the famous* Doleman, *to uſher in that horrid Conſpiracy againſt the Life of King* Charles II. *and of his Royal Brother, the then Duke of* York *and afterwards King* James II. *For the Hiſtory of which, the World is obliged to the Right Reverend and moſt Ingenious, the preſent Lord Biſhop of* Rocheſter. *'Tis commonly called the* Rye Houſe Plot, *becauſe the barbarous Conſpirators choſe that place (by which the King and his Brother were to return from* New-Market) *for executing their treaſonable and bloody Deſign, as appears clearly both from the Confeſſions of ſuch as ſuffer'd for being accomplices in it, and from theirs who were pardoned. But to return to* Doleman, *the Book was ſo hugg'd by the Party that the impreſſion went off, and a Copy of it now can very hardly be got for Money. For as Doctor* Pelling *obſerves,* That the barbarous Murderers of King *Charles* I. were forced to be beholden to this Jeſuite for Principles to defend that unnatural War, and that unjuſt Sentence; for could the Proteſtant Religion (which they pretended to maintain) have born them out, they would never have rais'd up a Jeſuite's Ghoſt to ſpeak for them. And there muſt be ſome ugly deſign on foot now, when this very Book is brought upon the Stage again, *&c.* i. e. *when it was reprinted in the year,* 1681.

Having ſaid thus much of the Editions of Doleman's *Book, what ends he ſerved and the deſigns of the abetters of his Principles and Doctrines, it's but juſt to give the Reader ſome account of ſuch Loyal and Worthy Gentlemen as have oppos'd them before I come to account for publiſhing this Book againſt them. The firſt is Sr.* John Hayward *who wrote in the year* 1603, *and who appears to me to have been a man of good Learning and knowledge in the Law, but then he only conterned himſelf with the firſt Book which was alſo reprinted in the year,* 1683. *Beſides him I meet with no Author that takes* Doleman *to task untill the year* 1682, *in which Dr.* Pelling *publiſh'd the* Apoſtate Proteſtant, *which was reprinted in* 1685, *The Doctor gives an account and Character of the Counterfeit* Doleman, *to whom I refer the reader that wants to know it. In that Book he runs the Parallel between the* Jeſuite *and the* Fanatick, *and makes it clearly appear, that one* Hunt, *the Collector of* the Hiſtory of Succeſſion, *borrowed his Principles, Arguments and Examples from* Doleman *by ſetting down in one Column what the Jeſuite, and in the other what* Hunt *brings, which are the very ſame thing upon the matter. The Author of the* Athenæ Oxonienſes, *obſerves upon that occaſion,* [a] *'How much 'the Fanatical applauded pieces in Politicks, have traded with, and been be- 'holden to that Conference written by* Doleman, *(notwithſtanding their pretend- 'ed great hatred of, and ſeeming enmity to Popery) by aſſerting many of the 'Self ſame moſt damnable and deſtructive Principles laid down therein. For the truth of which he appeals to the above-cited,* Apoſtate-Proteſtant. *'Tis remarkable that* Hunt *in his Second Edition of his* Conſiderations relating to the next Succeſſor of the Crown, *owns his Principles to be taken from* Doleman [b], *which I think might oblige ſuch as call themſelves Proteſtants to become a little ſuſpicious of thoſe Books.*

[a] Athen. Oxon.

[b] Ibid.

Sir George Mackenzie *wrote that excellent and unanſwerable Book, entituled* Jus Regium, *againſt* Doleman *and others of the like pernicious Principles, with great ſtrength of Argument both from Laws and Reaſon. I ſhall here inſert the Character given that Author by the* Oxford *Antiquary, which is as follows,* That he was a Gentleman well acquainted with the beſt Authors whether ancient or modern, of indefagitable Induſtry in his Studies, great Abilities and Integrity in his Profeſſion, Powerful at the Bar, Juſt on the Bench, an able Stateſman, a faithful Friend, a Loyal Subject, a conſtant Advocate for the Clergy and Univerſities, of ſtrict Honour in all his Actions, and a zealous defender of Religion and Piety in all Places and Companies. *His Book was Dedicated to the Loyal Univerſity of* Oxford, *who gave him a Letter of thanks for ſo learnedly aſſerting the Royal Cauſe, which he received with great reſpect. That famous and Loyal Univerſity in the Year* 1683 *looking upon the Poſitions in* Doleman's *Book with thoſe of other Incendiaries to be of dangerous Conſequence to the ſacred Perſons of Princes, their State and Government, did in their publick Convocation, decree them to be* Falſe, Scandalous and Impious, Infamous to Chriſtian Religion, and Deſtructive of all Government in Church and State, *ordering the Books (wherein ſuch Propoſitions were aſſerted)* to be publickly burnt by the hand of their Marſhall in the Square of their Schools.

Athen. Oxon. *vol.* 2. *p.* 95.

Scotiſh. Hiſtor. Libr. Append. N. 1.

Decret. Acad. Oxon. fol. Oxon. 1683.

Thus much of the Authors who have oppos'd Doleman, *to them may be added, ſuch as have anſwer'd the tranſcribers of* Doleman. *The worthy Dr.* Brady *(who was well ſeen in the Hiſtory and Conſtitution of* England *) anſwer'd* Hunt, *in that Book entituled,* The great point of the Succeſſion diſcuſs'd, *printed at* London, 1681. *For as the above-cited Author of the* Athenæ Oxonienſes, *obſerv'd,* The ill deſigning Scriblers in their Pamphlets have taken many of their dangerous Tenets from *Doleman's* Book, which is a well furniſht common place Book, for ſuch turbulent Authors to enlarge on, as their reſpective Authors and Intereſts ſhould Suggeſt.

The moſt peſtilent and dangerous Piece that ever was written againſt this Government, ſays the above cited Dr. Hicks, *is* Doleman's *or* Parſons, Title to the Crown, *which they have dreſſed up in ſeveral diſguiſes, not only in the time of the Late Rebellion, but ſince the Late Liberty of the Preſs. And from the Men of theſe Principles, he tells us, it is that within theſe laſt three Years, we have ſo many Impious and Treaſonable Books Printed. The Titles of them are put in the Margent, viz.* The Appeal from the City to the Country, *which alſo ſaith,* The worſe Title the better King. A brief Hiſtory of the Succeſſion. A Letter of a Gentleman to his Friend, ſhewing that the Biſhops are not to be Judges, *&c.* Plato Redivivus. Dialogue between Tutor and Pupil.

Having given this brief account both of the entertainment and oppoſition, which Doleman's *Principles have met with in* England, *I reckon the curious and unprejudiced Reader may think it worth his while to have a brief account of the Opinions of the Presbyterians of* Scotland, *with relation to ſuch Doctrines, and the rather that the Learned Author, with whoſe Works on that Subject he is now preſented, has upon ſome occaſions own'd himſelf a Presbyterian, which entitles him to a fair hearing from the Presbyterians, and it cannot but be moſt acceptable to all the true Sons of the Church of* England, *to find ſo Learned and Judicious a Presbyterian ſo heartily juſtifying her Loyal Principles. And in this my buſineſs ſhall be to act the part chiefly of an Hiſtorian. Some* Scotiſh *Presbyterians began pretty early to vent aukward Propoſitions, and throw*

out

out Theorems, which did not seem to flatter Crowned Heads. For in this Author's time, one Black *preached from the Pulpit, that* all Kings were the Devil's Bairns. *Mr.* Welch *Senior held forth,* That King *James* VI. of *Scotland* was poſſeſt with a Devil, and that one Devil being put out, ſeven worſe were entred in the place, and that as Children might lawfully diſarm a Father in a Phrenſie, Subjects might riſe and take the Sword out of his hand. Andrew Melvin, *to his Students of Divinity, inſtead of Theological, inſiſted on theſe and the like political Queſtions,* Whether Election or Succeſſion of Kings, makes the beſt form of Government? How far the Royal power extends? Whether or not Kings may be Cenſured and depoſed by the States of the Kingdom, in caſe their power is abuſed? Calderwood [a] *has theſe words,* Si quis non obſcure prædicaverit inſitum eſſe omnibus Regibus in Chriſtum odium, non longe oberravit. *He was Contemporary with Sr.* Thomas Craig. Vindic. Epiſt. Philadelph. p. 68.

But to do them Juſtice, tho' the Lawfulneſs of defending Religion by arms, againſt whatſoever higher Powers, has been pretty univerſally maintain'd by the Presbyterians in Scotland, *yet they diſtinguiſh'd between reſiſting Kings and depoſing them.*

Buchanan's *heights, for very many years, had very few Abettors.* Blackwood, Barclay, Arniſæus *and other learned men wrote againſt him. I know of no* Scottiſh *Presbyterian, that in thoſe days undertook his defence.* Spottiſwood *did indeed ſay* [b]. *That* Melvin's *Scholars in St.* Andrews *beſtow'd more pains on* Buchanan de jure Regni, *than on* Calvin's *inſtitutions*; *But all that* Calderwood *had the Courage to rejoin, was,* An Conſenſcere debet Theologus apud *Calvini* Inſtitutiones, & non plura Sapere? Quidin legerent *Scoti* Dialogum *Scoti* eruditi de jure Regni apud *Scotos? How hard were it to Conſtruct this to an approbation of all* Buchanan's *poſitions! The great* Dionyſius *of* Alexandria *had Heaven's allowance to read Heretical Books, that he might confute them. Perhaps* Calderwood *intended no more, no more is to be inferr'd from his words,* Spottiſwood *had ſaid,* Nec dubium niſi tempeſtive obvium itum fuiſſet quin ad Regem Regno exuendum, Magiſtratus omnes tollendos & meram ἀναρχίαν res ſpectaſſet, *&c.* Calderwood *replies not without ſome ſhew of paſſion,* Quis præter te autumet verum eſſe quod tu ſine dubio aſſeris? Annon erubuiſti cum hæc ſcriberes? Annon timuiſti ne omnes qui legerent, plus odij quam veri in verbis tuis olfacerent? An vel de Rege Regno exuendo, vel de Magiſtratibus tollendis unquam Conſilia verſarunt? *ſo frankly did even* Calderwood *himſelf renounce the depoſing ſyſtem.* [b] Refut. Libelli, &c.

The Scottiſh *Presbyterians when they hatch'd their National Covenant, had not the Courage to own the dethroning Doctrines. No ſuch thing profeſſ'd by* Henderſon, Dickſon *and* Cant *in their Anſwers to the demands of the Doctors of* Aberdeen. *Nothing there but high pretences to Loyalty. 'Tis true, when the Doctors in their Replies did put them a little harder to it,* Henderſon *and* Dickſon, *did after ſome ſhuffling plainly enough Confeſs, that they were for defenſive Arms* [a]. *But then, never men more Solicitous to avoid all ſuſpicions of the depoſing heights. By their,* Banding for mutual defence againſt all perſons whatſoever, *they ſay that,* They mean not only mutual Concurrence and aſſiſtance in the Cauſe of Religion, but alſo to the uttermoſt of their power to defend the King's Majeſty, his perſon and Authority, *and that* they would be glad the Doctors and others were Witneſſes to their private prayers, and their moſt ſecret thoughts and affections Concerning their Loyalty to their dread Soveraign, *for ſo* The Doctors [a] *See Anſwers to Reply 8th. and 9th.*

Doctors, *ſay they*, ſhould be obliged to ceaſe to write againſt them as they had done, or write againſt their own Conſciences [b]. *And they add*, We would hear what malice it ſelf can ſay againſt the words of the Proteſtation (*made by the Covenanters againſt one of the King's declarations*) That it ſhall be lawful to us to defend Religion and the King's Authority, in defence thereof, and every one of us of another, in that Cauſe of mantaining Religion and the King's Authority *&c. Such ſay they, was their Profeſſion and that their practice was agreeable.* Their proceedings had been in themſelves moſt neceſſary and orderly means, agreeable to the Laws of God and practice of this Kirk and Kingdom, and had tended to no other end, but the preſervation of Religion and maintenance of the Kings Authority [c]. *Theſe their Anſwers were written, Anno* 1638.

[b] *Anſwer to Reply 2d.*

[c] *Anſwer to Reply 9th.*

They publickly profeſs'd the ſame, Anno 1640. *of which Mr* Baylie *ſhall be a witneſs, who then publiſh'd his* Laudenſium αὐτοκατάκρισις *with a Poſtſcript for the perſonated Jeſuite* Lyſimachus Nicanor, *as he calls him.* Lyſimachus *had drawn ſome Paralels between the Jeſuites and the Presbyterians; one of which was, That Kings have their Power from the People, and by conſequence are accountable to them, and cenſurable by them. And Mr.* Baylie *in the name of his Party anſwers that Author and his Charge thus,* 'Your Second pa-'rallel is wholly Jeſuitick: You thraw (i. e. force) *the holy Scriptures unto* 'your wicked ſcoffs at the Gracious Servants of God: You lay to our Charge 'imputations which never entered in our thoughts. Did any of us ever teach 'that Royal Authority did ever depend on the Multitude, and that it was in 'their power to give Crowns to whom they would? When theſe men are bold, 'to put in print before the Eyes of the World, ſuch ſlanders of us, what do 'they inſtill in the Ears of our King and his Servants in their privy Confe-'rences? Shall any wonder that ſo long as ſuch men get leave to ſpread, without 'a Reply, ſuch horrible Calumnies of us, the heart of our Gracious Prince, and 'many about him, ſhould be inflamed to our hatred? What he ſpeaketh of the 'divine Inſtitution of Kings we do believe, that by God Kings do reign: It 'is plain Scripture. As alſo that all advancement is neither from East nor 'West, *but from the hand of the moſt High. So that all who deny to any Su-'periours the Obedience which is due to their lawful Command, muſt ſin againſt* 'God. *We believe that our King is ſet over us as his Deputy, That ſince the* 'time our old Anceſtors choſe Fergus *the firſt for their King; yea ſince the* 'days of King Kenneth *the third, to be governed by his neareſt Heir, our* 'Subjection to the neareſt Heir of the race is now SIMPLY UNCHANGABLE. 'The leaſt motion of any ſuch change hath as little come into the mind of this 'Nation, in theſe days of King Charles, *as in any age of the laſt* 2000 *years,* 'wherein our Fathers have ſhewed more conſtant affection to the ſervice of his 'Anceſtors than any other Nation under Heaven, this day, to their Royal Fa-'milies. What here the Rechant of our mind to a Reſiſtance and Defenſive 'War, in ſome Caſes, is nothing Contrary to our profeſſion. Many bickerings 'have our Predeceſſors had with miſleading Factions, to which the Prince, for 'a time, hath given his Countenance; but they were ever willing to diſtinguiſh 'between the Prince and his miſinformers; to ſee them puniſh'd, when their In-'ſolent Tyranny became intollerable; but the Prince ſettled in the full ſtrength 'of his Authority, which, for a time, the bloud of theſe Graſshoppers did ecclipſe in 'the hearts of the People. Thus he, as I ſaid, in the name of the whole Party; Juſtifying indeed in ſome caſes defenſive arms but zealouſly renouncing all depoſing or altering the Succeſſion of their Kings.

Their

Their General Aſſemblies afford us ſtore of Abrenunciations of the depoſing Doctrine. That which was held in the year 1638. in their humble Supplication to the King's moſt Excellent Majeſty, *dated* Novem, 21. *ſays*, When your Majeſties wiſdom hath ſearch'd all the Secrets of this Aſſembly, let us be reputed the worſt of men according to the Aſperſions, which partiality would put upon us; let us be the moſt miſerable of all men, to the full ſatisfaction of the vindictive malice of our Adverſaries; Let us by the whole World be judged of all men the moſt unworthy to breath any more in this your Majeſties Kingdom; if the Cauſe that we maintain and have been proſecuting, ſhall be found to be any other, but that we deſire the Majeſty of God, who is our fear and our dread, be ſerved, and his Houſe ruled according to his Will, and if we have not carried along with us in all the Seſſions of our Aſſembly a moſt humble and Loyal reſpect to your Majeſties honour, which next to the honour of the Living God lieth neareſt to our hearts. *And a great deal more to the ſame purpoſe.*

Their General Aſſembly in their Anſwer to his Majeſties Letter Anno 1641. *expreſs themſelves thus*, Moſt gracious Soveraign: Beſide the Conſcience of that Duty, which we owe to Supreme Authority, we are encouraged to offer up our Prayers, with the greateſt fervency to God Almighty, for your Majeſties happineſs; Our ſelves, for our own parts, and for the whole Kirk of this your Majeſties Kingdom, which we do repreſent, to ſerve your Majeſty in all humble obedience; our faithful Labours for preſerving truth and peace amongſt all your Majeſties Subjects, and our Example, according to your Majeſties juſt Commands laid on us, to be a Precedent to others, in paying that Honour, which by all Laws, Divine and Humane, is due unto your ſacred Majeſty. *So full were the expreſſions of their Loyalty, that it would have been reckon'd the height of uncharitableneſs, to have ſaid, that they entertain'd the leaſt thought of* Doleman's *depoſing Principles.*

'Tis true that in the year 1645, *after the* Marqueſs *of* Montros *had taken the Field, they entertain'd his Majeſty with pretty free Language in their Humble Remonſtrance, dated,* Feb. 13th. *yet at the ſame time they made ample enough profeſſions of their Loyalty.* '*For they tell the King that their record* '*is on high, and their Conſciences within them bear them witneſs, and the World* '*knows, and his Majeſty is Conſcious of their Loyalty, and faithful Subjection,* '*and how far their Intentions are from the diminution of his juſt Power and* '*Greatneſs; and tho' the ſucceſs of many of their humble addreſſes to his Ma-* '*jeſty has been ſuch as did fruſtrate their deſires and hopes, yet this hath not* '*blotted out of their hearts their Loyalty, ſo often profeſſed before God and the* '*World; But it is ſtill their Souls deſire and their Prayer to God for him,* '*that himſelf and his Poſterity may proſperouſly reign over his ancient and Na-* '*tive Kingdom, and over all his other Dominions. And in that ſame Remonſtrance, they add, That their Aſſembly* had proceeded with as much reſpect to his Majeſties honour, and as much remembrance of their duty, as if his Royal perſon had been preſent in the midſt of them. *And*, they ſhall continue to pray for him, that God would graciouſly grant him a long and happy reign, *&c. Farther yet.*

The very Assembly that was held, Anno 1648. *It self, tho' oftner than once it declared against the Kings Negative Voice, requiring the Committee of Estates,* to keep themselves from owning any Quarrel concerning it [a]. *And reckoning it* inconsistent with the Privileges of Parliament [b]. *And,* more dangerous than most things to Religion [c]. *Tho' it interpreted that Clause in the Covenant, wherein they Swore,* to defend the Kings Person and Authority *IN* the preservation and defence of the True Religion, *&c. To a sense apparently opposite to that which* Henderson *and* Dickson *had given it, these affirming, that it was only a specification, but not at all a limitation; And the Assembly that it was manifestly This, and not barely That* [d]. *Tho' it did most Zealously condemn the Parliaments offering to raise an Army to relieve the King, then a Prisoner, and in the hands of those who not long after that embrued them in his Blood; Branding that undertaking with the name of an* unlawful Engagement [e]. *Tho it did once and again Remonstrate against the bringing his Majesty to any of his Houses in or near about* London, *with Freedom or Honour or Safety, till he should give them Securities, of their contriving, for the Ratification of the whole Covenanted work of Reformation,* &c. [f]. *This very topping Assembly, I say, tho' it made all these and many more unaccountably bold steps, yet it had not the Confidence to appear plainly for deposing him. No they were as formal as ever in the professions of their duty. Their* Declaration Concerning the present dangers of Religion and Especially the unlawful engagement in War, *said they, did not proceed,* from any disloyalty or undutifulness to the King's Majesty, to whom they heartily wished and to his posterity after him, a happy Reign over these Dominions [g]. *Whoso should fansie they desired* that Respect and Love to his Majesty might be branded with the infamous mark of Malignancy, *should mistake them* [h]. *They* acknowledged themselves bound and were still resolv'd to preserve and defend his Majesties Person and Authority [i]. *They* could not but abhor the purposes of any, who minded the Subversion of Monarchical Government, which they heartily wish'd might be preserv'd and continued in his Majesties Person and Posterity [k]. *And to himself they wrote thus,* Albeit your Majesty through the Suggestions of evil men, may haply entertain hard thoughts of us and our proceedings, yet the Searcher of Hearts knows, and our Consciences bear record unto us, that we bear in our Spirits those humble and dutifull respects to your Majesty, that Loyal Subjects owe to their Native Soveraign, *and that* it would be one of our greatest Contentments upon Earth, to see your Majesty reigning, *&c.* [l]. *Telling him that,* They were very sensible of his sufferings and Low condition; that they did not in the least approve, but, from their hearts abhorr any thing that had been done to his Majesties Person; and that they did not oppose his Majesties Restitution to the Exercise of his Royal power, *&c.* [m].

Vast Numbers of other Clear Testimonies to this purpose may be found in the Swarms of Addresses, Petitions, Protestations, Declarations, Warnings, Exhortations, Remonstrances, and other Papers emitted by the General Assemblies, Commissions of the Kirk, Provincial Synods, and Presbyteries of those times. I shall add only one Testimony more. It is an Article of their Confession of Faith, Ratified Aug. 27. 1647. *When the Covenant was in a very Flourishing Condition. You have it,* Chap. 23. §. 4. Infidelity or difference in Religion doth not make void the Magistrates Just and Legal Authority, nor free the People from their due Obedience to him. *Such were the Professions of the Presbyterians of* Scotland *in those days.*

'Tis

[a] *See this Assembly's Answer to the Committee of the States* July 25*th.*

[b] *See their declaration* July ult.

[c] Ibid.

[d] *Compare* Henderson's *and* Dickson's *answer to demand* 8*th and Reply with this Assembly's Declaration,* July ult.

[e] *Declaration,* July ult. & passim.

[f] Ibid. *And in their declaration and exhortation to their Brethren of* England, Aug. 1*st.*

[g] *Declaration* July ult.

[h] Ibid.

[i] Ibid.

[k] *Declaration and exhortation to their Brethren of* England Aug. 1.

[l] Ibid, *and humble supplication,* Aug. 12.

[m] *Humble Supplication to the King* Aug. 12.

Tis true, that bold and ſenſeleſs Book, Entituled Lex Rex, *was written by a firſt rate Presbyterian Miniſter there, and Publiſh'd* An. 1644. *That Author indeed calls* Mariana *the Jeſuite, whoſe principles were the ſame with* Doleman's, *an approv'd Author* p. 178. *But it never had the Approbation of a General Aſſembly, as* Gilleſpie's, CXI. Theoremata de Miniſterio & Regimine Eccleſiaſtico, *had. And the Teſtimonies which I have brought from General Aſſemblies, ſome Years after that Book ſaw the Light, are plainly inconſiſtent with many Speculations in it. And tho' ſome of the Hot-headed* Remonſtrator *party (of which the Author of* Lex Rex *was a chief man) might be fond of it, yet it being condemn'd to the Flames before Epiſcopacy was reſtored, and Burnt at the Market Croſs of* Edinburgh *by the hand of the Common Executioner, was never receiv'd as a Standard by the Presbyterians of* Scotland, *or but lately.*

There is one Objection againſt what I have here brought, of the declarations of the Presbyterians of Scotland *againſt the depoſing Doctrines of the Counterfeit* Doleman, *which did not reliſh with them even in their Covenanting Paroxyſms; and it is from the practice of thoſe very Presbyterians who were ſo very Liberal in their Profeſſions of Loyalty. For ſome will ſay, that they did not ſtick at* Plotting, Preaching, Praying, Leaguing, Swearing, Fighting againſt, and at laſt delivering up their King, *and then Condemned all attempts to relieve him, when he was in the hands of the barbarous and bloody* Sectarians, *branded that Loyal and noble undertaking of the Parliament of* Scotland *to raiſe an Army for relieving the King, (which afterwards marched into* England *under the Command of the Duke of* Hamiltoun,) *with the Name of* the unlawful Engagement, *made all the oppoſition in their power to it both by Preaching and Fighting, the Miniſters themſelves in ſome places, as Captains, commanding their Forces;* [a] *And thereafter forcing the Loyal Gentlemen, as well as the Common People concern'd in that Engagement, to undergo penance before they could be ſuffer'd to live in Peace in their Native Country.*

[a] *Biſhop* Guthry's *Memoirs*, p. 229.

I confeſs I muſt leave it to them to reconcile ſuch practices and profeſſions as are here related, and which are ſo well vouched, as they muſt be own'd by their Friends. And to clear their Predeceſſors, from ſuch Hypocriſy as I verily believe, is not to be parallel'd in Hiſtory; The days of the Covenant, and the Rebellion and Uſurpation which it uſher'd in, deſerving by way of appropriation the Epithet of Seculum Hypocriticum. *But yet enough has been ſaid to prove that the Presbyterians, even in the days of the Covenant, declared againſt the depoſing Doctrine.*

Some of the moſt Learned Presbyterians, ſuch as Blondel *and* Boſhart *have written zealouſly for Subjects their paying the ſtricteſt ſubmiſſion to Soveraign Princes, and* Deodate, *whoſe excellent Letter upon that Subject is Printed, as alſo the great* Salmaſius [b]. *Neither ought their Books on that Subject to be leſs eſteem'd, upon the account of their erroneous Opinion as to the Church Government. But by what has been ſaid, the Reader can judge how far the Presbyterians have ſwerv'd from the Principles and Doctrine of this Author, who gives not the leaſt encouragement to any diſloyalty, but on the contrary, with other great men of their own perſwaſion, moſt learnedly and judiciouſly aſſerts the Principles of a dutiful behaviour in Subjects towards their Princes, and moſt effectually expoſes and baffles the pretences for ſuch practices as are Contrary thereto.*

[b] Herbert's *Memoirs*. p. 207.

The PREFACE.

My next buſineſs ſhall be to offer ſome reaſons for this work's being publiſh'd to the World at laſt. The firſt of which is, becauſe it is known to be written with great Judgment and Learning, on a Subject of the greateſt Conſequence to the peace and happineſs of humane Society. And conſequently it can never come abroad unſeaſonably, but will be always an uſefull and laſting Book. Such works do in ſome meaſure reſemble thoſe of the Creation; And as the light and heat of the Sun is not a whit impair'd in near ſix thouſand years time, and pure Gold loſes none of its parts in the furnace, neither can any ſuch golden Books, how long ſoever ago written, loſe any thing of their true worth and eſteem. They in reſpect of duration, have greatly the advantage of Animals and Vegetables, which after they have attain'd their perfection, decay, die and are remembred no more, but time, the great deſtroyer of other things, gets no power over immortal Writings, nor can gray hairs grow upon them. Some Treatiſes indeed are written meerly to ſerve a turn, and when that is over, there is no more occaſion for them; others on ſuch poor Subjects, or after ſuch a trifling manner, that time conſumes them, and delivers Poſterity from the trouble of ſuch Performances. But the Learn'd World has already entertain'd ſo high an opinion of the Author of the Books De Feudis *(the Maſter-piece on that ſubject) that they account him to have thereby Erected a moſt laſting Monument, to preſerve his Memory, ſo that with good reaſon he might have ſaid of himſelf*

Exegi monumentum ære perennius.

The learned Lawyers will, (as long as that Science laſts) pay the greateſt deference to the memory of one who has afforded them ſo great light in it. Nay, I may ſay that his Book, De Hominio, *which was written on a barren Subject, in compariſon, will laſt untill that diſpute ſhall be forgotten, and perhaps the unprejudiced reader will be fully ſatisfied that he has put an end to it. But it may at leaſt be doubted, whether it will be ever parallel'd by any on that Subject, much leſs anſwer'd. For he knew not what it was either to trifle or blunder, in any matter of Learning.*

If then nothing could come from his Pen upon any Subject, but what muſt be always highly valued by Poſterity, upon account of that Learning and great Judgment wherewith his Books were written, how much more muſt this finiſh'd work, which has ſo near a relation to the welfare, if not to the very being of Civil Society, be well receiv'd and always eſteem'd? For untill the Relations and Relative Duties between Soverains and Subjects, Parents and Children, Maſters and Servants, come to be regarded no more, and men degenerate into a herd of wild Beaſts, or exceed them for fierceneſs and brutality, this Book, wherein thoſe duties are clearly ſet forth, and enforc'd from the Laws of God and men, and from reaſon, muſt be uſeful, and acceptable. Our late Authors who Refine upon Civil Government, and the ancient fundamental Conſtitutions of Kingdoms, and take upon them to amend what hath been eſtabliſh'd by the moſt uncontested Authority, and approv'd of by the Wiſdom of Nations, advance ſuch imaginary and Utopian *Schemes, as ſerve only to embroil the World. And tho' they all commonly agree in pulling down the Government under which they were born, yet it will be as hard to find two of them of one mind, as to what they would have ſet up in the place of it, as it was for the Lord* Digby * *in his time to meet with two of the violent aggreſſors for pulling down the Church of* England, *conſenting in the Government, which they would ſet up, upon compaſſing their deſigns in the Subverſion of the former. Their States of Nature never were,*

Ruſhworth's *Collections.*

nor

nor as I think, ever will they be in Nature. The Erecting Governments in vaſt Kingdoms with the Conſent of all the Individuals in them, is a meer Repugnancy, as is that other Poſition of the Equality of Mankind; unleſs they had been all at once ſhowred down upon the Iſle of Pines, *or ſprung like ſo many Muſhrooms in one Night out of the Earth. Such Speculations might perhaps have paſs'd in the Schools of the Conceited* Stoicks, *who had the vanity to reckon themſelves not only equal to their Kings, but to their Gods; But are abſolutely inconſiſtent with the State and Conſtitution of Chriſtian Kingdoms.*

A ſecond Reaſon for making this Work publick ſhall be this, becauſe it is the only compleat Anſwer to both Parts of Doleman's *Book, as the Learned, and Right Reverend the preſent Lord Biſhop of* Carliſle *affirms, our Author Anſwers* all the Arguments of his Adverſary. * *To which I may add that he examines all his Precedents, and quite overthrows his Principles. The Abetters of* Doleman's *tenets, have not only taken care to have his Book printed and reprinted, as has been ſaid already, but many other Books which have the ſame tendency with* Doleman's *have of late years had fine Editions; Such as* Harington's Oceana; Milton, *who was the chief Advocate for the Murderers of King* Charles I. *his* Political Works; Ludlow, *one of the Parricides, his* Memoirs, *and innumerable other Books written againſt the Monarchy, and which generally are ſo many virulent Libels againſt the Royal Family. How much many of them have traded with the Counterfeit* Doleman, *either at firſt hand or by retail, will be eaſily enough diſcover'd by any man, who will be at pains to compare them together. 'Tis therefore not to be doubted, but as ill deſigning men have given a kind reception to ſuch Books, which ſome time or other may be attended with fatal Conſequences to the Nation, So all good and unprejudiced men will be well pleas'd to ſee this work abroad; wherein not only King* James *the Sixth's* Right of Succeſſion is undeniably aſſerted[a], *and* The bold Adverſary defeated to the full Conviction of all Reaſonable men[b], *but alſo the* Engliſh *Monarchy, and its ancient Conſtitution, with its Laws, and whatever is for the Honour and Intereſt of ſo Renown'd a Nation is learnedly aſſerted, and clearly vindicated. And by one ſo well qualified for ſuch an undertaking, he having ſpared no pains in his diligent ſearches into the Hiſtory and Laws of that Kingdom.*

Scotiſh Hiſtor. Libr. 179.

[a] Scotiſh Hiſt. Libr. p. 178.

[b] *Pref. to* Scotld's *Sovereignty Aſſerted.*

In the laſt place, this Edition is not only a piece of Juſtice, due to that Right, of which this great Author undertook the Defence, and agreeable to his deſign in compoſing it (who owns his purpoſe of oppoſing the petulancy of Loyola's *Family) but intended alſo for ſatisfying many worthy and ingenious Gentlemen, and the general benefit of all Readers. For ſince ſeveral Authors have given great* Encomiums *of this Work, and mention'd the Manuſcript with ſo great honour, the general diſpoſition in many ſeem'd to encourage the undertaking of it's publication. Much more might be ſaid upon this head if it were neceſſary.*

I ſhall not detain the Reader with any tedious account of the Work it ſelf, nor with any Panygericks in its juſt Praiſes. The Performance will beſt ſpeak for it ſelf. Only I may ſay this, that perhaps no Author before him has treated ſo Learnedly or Judiciouſly on Monarchy. He gives indeed to the Hereditary, the preference before Elective Monarchies, but he carefully weigh'd all the Conveniencies and Inconveniences, wherewith either one or the other of them are attended. He is ſo full on that ſubject, that I doubt whether Momus *himſelf can find out any defect there. He ſets forth to the beſt advantage, not only all the Arguments, which the Advocates for Elective Monarchies had brought, but,*

as he tells us, ſeveral others which were not then, and it may be doubted, if at this day they are to be met with in any Treatiſes upon that ſubject. Yet he is full in diſplaying the vaſt Miſchiefs and Inconveniencies which proceed, accompany, and enſue upon ſuch Elections of the People, and anſwers all Arguments brought in favour of Elective Monarchies. Perhaps the miſerable ſtate of that (otherwiſe great) Kingdom of Poland *at this day, may give any Ingenious Man, who is not under the power of prejudice or private deſigns, a ſufficient view of, and averſion to ſuch kind of Governments, which in their own nature are fatal to Empires and Kingdoms. He proves againſt his Adverſary, that Hereditary Kingdoms derive from God, are Patrimonial, and do not conſiſt in a bare Adminiſtration, and quite overthrows the Sophiſms of that Jeſuite, which he brings for Kings deriving their power from the People, and for the Doctrines of Reſiſtance againſt Lawful Authority, and for Chaſtiſing and Dethroning Kings. He grounds his Aſſertions on the Laws of God and Men and brings his Arguments from thence, confirms them with the ſtrength of Reaſon, the Cuſtom of Nations, and the Authority of Lawyers and other Learned Men. The Civil Law, which, as our Author ſays,* for its exceeding great Equity, became the Law of Civilized Nations, *is cited moſt appoſitely throughout this whole Book, which with the great variety of Hiſtory, wherewith it's ſtored, renders the work both very inſtructing and delightful. In the laſt Chapter of his Book, he detects* Doleman's *Impiety, and fully confirms the juſt Right of Succeſſion, which by the Laws of God, Nature, Nations, and the Civil Law, did undoubtedly belong to his Royal Maſter, making clearly appear, that all the Qualifications which* Doleman *or* Momus *himſelf could require in an Heir apparent, were eminently in him.*

In his Second Book he conſiders the Municipal Laws of England, *in ſo far as they relate to the* Succeſſion *of the Crown, premiſing the Differences between that and the Succeſſion to private Eſtates. He takes off clearly the objection from the Statute of* Edward III. An. Regni XXV. *Which he demonſtrates touches not the heirs of the Crown, nor any but ſuch as were born* beyond the Sea. *He proves that the* Scots *were never reputed Foreigners in* England, *but on the Contrary that they had a right to the ſame Privileges with the* Engliſh, *ever ſince the reign of King* Inas; *for proof of which he brings the famous Statute of* Edward *the* Confeſſor, *which was confirmed by* William *the* Conquerour *and his Succeſſors, and was never repealed by any of them, by any particular Statute. He ſhews what an inviolable friendſhip obtain'd between the two Nations, during the bloody Wars againſt their Common Enemies and Aggreſſors the* Danes. *And how that Homage which* Edward I. *claim'd for the Kingdom of* Scotland *was the true Cauſe of thoſe bloody and deſtructive Wars between thoſe two Kingdoms. He clearly demonſtrates the Right of the Houſe of* York *in oppoſition to that of* Lancaſter, *which laſt,* Doleman, *on purpoſe to make way for the King or the* Infanta *of* Spain, *according to his wonted Candor, had left no ſtone unturn'd nor omitted any of his artifices, to give a colour of Right to, and preferable to that of the former. He examines fairly the pretences, which his Adverſary made for the Lines of* Portugal *and* Caſtile, *and of all the reſt of his* Titlers, (*as he calls them*) *which he brought upon the Stage, Vindicates the Legitimation of the Duke of* Lancaſter's *Children by the Lady* Catharine Swinford, *and demonſtrates the King of* Scotland *to be the true heir and Chief Prince of both thoſe moſt Illuſtrious Families, who ſoon after united both Kingdoms under one Monarch, as his Predeceſſor* Henry VII, *by marrying the heireſs of* York, *united the* Roſes. *He treats alſo here of the Union of the Kingdoms*

making

making it evidently appear to be greatly for the interest and security of Britain. Doleman *by his great Zeal and Efforts to get the King of* Spain, *preferred to the Succession of* England *gave our Author occasion to treat fully of that Question,* Whether the Government of a natural Prince be more expedient, or that of a Foreigner? *Chap.* XVI. *In which he demonstrates the vast advantages to a Kingdom from the former, and the unspeakable miseries, which accompany the Administration of the latter. He concludes all, with an Address to* England *to embrace the benefit of the opportunity, which the Divine Providence had offer'd them, and to agree to the Concord of all* Britain. *He gives a most lively Representation of the Miseries of this Noble Island under its Ancient multitude of Monarchs, the inconveniencies which attended the* Heptarchy *in* England, *the Monstrous condition of great* Britain *under two heads, and that nothing was wanting to compleat its happiness, but its being United into one Nation, under one Monarch; concluding his good wishes for that happy Union, with a most apposite sentence of* Virgil.

——————Paribus se legibus ambæ
Invictæ Gentes æterna in fœdera mittant.

I am apt to believe that the ingenious and disinteress'd Reader upon perusal of this book, will be so far from thinking that the Author has disappointed his expectations in the matters he treats of, that on the Contrary he will be convinced, that he has got a compleat Treatise on each of them.

The Reasons in short why this work was translated and published in English, *and not as it was left by the Author in Latine, are, first, that the undertaker doubted of due encouragement, there being so general a humour of having books of Learning in this living Language, rather than in a dead one. The Second is, because it could not have been so generally usefull, for the information of such, as have been impos'd upon by the worst Errors and fallacious Reasonings of the Jesuites, and their followers; and to fortify people against them for the future. For the best Books in the World can never be useful to such as do not understand them: Seeing even the Mysteries of our most holy Religion, if delivered in an unknown Tongue, cannot edify nor beget Faith in the hearers,* 1 Corinth. xiv.

It remains now that we give some account of this truly good man, as well as great Author, whose Vertues were suitable to his vast Accomplishments. The worthy Publisher of his Books De Feudis, *Mr.* Burnet, *who after the Restauration of King* Charles II. *was for his Merit and Loyalty, made one of the Lords of Session, has made a Comparison between the Famous Emperour* Justinian *and this Author* a; *wherein he has shewn how much past Ages were endebted to the former, and the present and future Ages to the latter.* For as the Annals of those times, and our Author bear Witness, *says he,* of the Laudable care, which that Emperour took, to have the Ancient Civil Law put in order, extracting the substantial and most useful part of it, from a vast deal of Rubbish, Illustrating, joyning it together, and digesting it into a good order, so has our Author the Feudal Law and Customs, which have been receiv'd in *Scotland, England,* and most places of *France*; And the whole Law of *Scotland,* and all matters of Law, are by him clearly unfolded, according to the Principles and Rules of the Feudal and Civil Law. *The same worthy person in his Preface to the* Jus Feudale, *gives this farther account of the Author,* That he was Born at *Edinburgh,* his Parents being worthy Citizens there, *and the Publisher of his Book* Concerning Homage, *adds that he was Lineally descended from the Family*

a Præf. ad libros De Feudis.

[b] Preface to *Scotland's* Sovereignty aſſerted.

Family of Craigſton *in* Buchan, *one of the moſt Ancient in the Kingdom* [b]. He was Heir of ſome Land and Houſes in the high part of the City over againſt the Cathedral Church, call'd St. *Giles*'s Church. He took care to have them Magnificently Re-built afterwards of ſquare Stone, with a large Pavement of the ſame to the Street, which became a place of great reſort for the Citizens, and is commonly to this day call'd *Craig*'s plain-ſtones. *He adds,* That he was the greateſt Maſter both of the Greek and Latin Tongues of any of his Age. And that he ſpent his whole Life in Learning, and among Books. *He had his Education at* Paris, *as he himſelf tells us in the fifth and ſeventh Chapters of his Firſt Book of the Succeſſion,* &c. *where he applied himſelf to the Study of the Law.* He became one of the moſt eminent Advocates, of great Probity and unblemiſhed Uprightneſs, of a ſolid and exact Judgment, of a wonderful good Temper, and moſt pleaſant and obliging Behaviour. In the Year of our Lord 1604, he was Nam'd by the Parliament, and call'd by King *James* the Sixth, with Thirty more of the States of the Kingdom, to Treat of an Union between the two Kingdoms. Upon that occaſion he gave Signal proofs of his rare and exquiſite Learning, many Learned Conferences having paſs'd between him and the moſt Famous *Cambden*, and other Learn'd Men in *England*, to the great ſatisfaction of the Hearers, and the increaſe of his own fame. Whereupon the King was reſolv'd to beſtow the Honour of Knighthood upon him with ſome others. But he not regarding Worldly Honours, when he underſtood that he was to be call'd for that purpoſe, retired out of the way, and when it was told the King that he had withdrawn to avoid his being made a Knight, the King Commanded that he ſhould be lookt upon by all as a Knight, and that from that time he ſhould be deſign'd Sir *Thomas Craig*, Knight. But his uncommon modeſty made him always decline it. He was much given to Hoſpitality, ſo that he kept an open Table, not only for the poorer ſort of Gentlemen, and all good Men, eſpecially for all Men of Learning, but even many of the beſt rank in the Kingdom were entertain'd at it, he thereby leſſening his own Eſtate, or at leaſt making but a ſmall addition to it, for he was not deſirous of Riches. He Dy'd at *Edinburgh* in the Sixtieth Year of his Age; in the Year of Chriſt 1608, or thereabouts. *This account I have taken almoſt word for word, from the above mention'd Lord* Crimon, *as what may be depended upon. The Tranſlator of his Book* Concerning Homage, *has in his Preface added ſome farther accounts of our Author, and of his Iſſue, and I ſhall only add that the preſent repreſentative of his Family, the Laird of* Riccartoun *is a Gentleman of great Worth, and of a plentiful Fortune.*

I have already mention'd the Author's works, of which the Learned Biſhop of Carliſle *gives account in his* Scottiſh Hiſtorical Library, *p.* 15, 178, 276, 277, 284. The Incomparable *Th. Craig*'s *Jus Feudale*, will, *ſays he,* be a laſting Monument of the extraordinary Learning of its great Author. The worthy Publiſher of this Book, who was his Grandſon, gives the Reader a good account of the Writer's great Abilities, and uncommon Modeſty. And he himſelf acquaints us beſt with the deſign and method of the undertaking. It ſeems to have been intended as a preparative to the much long'd for Union of the two Kingdoms, by removing (the main Obſtacle) that general prejudice which had then gotten into the heads of ſome of the moſt Eminent Men of the Long Robe, in both Nations; that our Laws and Government were ſo Fundamentally oppoſite, as never to be reconcil'd and made One [a]. *The Author, by reducing the Laws of his Country into ſo clear a method, hath laid a moſt laſting Obligation upon his Country, and on the Students of the Laws; and*

[a] Scot. hiſt. libr. p. 276.

and that Admirable Book of his is in ſo great eſteem abroad, as well as at home, that the Learned Profeſſors in Foreign Univerſities teach it to their Students, as I have been often told by ſeveral Gentlemen, who have Studied the Law abroad.

There is another excellent Book of his, with this Title, De Unione Regnorum, wherein he has with all the ſtrength of Reaſon, Wit, and Eloquence, demonſtrated the neceſſity and expediency thereof [b]. *And 'tis a great pity that care is not taken to Publiſh it. For tho' he has treated moſt Judiciouſly on the Union of the Kingdoms, in his ſecond Book* Concerning the Succeſſion, *&c, yet a compleat Treatiſe on that important Subject (which he had throughly conſider'd) by ſo maſterly a hand, could not fail of being moſt acceptable, uſefully and highly eſteem'd.*

[b] Preface to *Scotland's* Sovereignty.

His Elaborate Treatiſe De Hominio, *which unanſwerably Vindicates the Independency and Soveraignty of the Kings of* Scotland, *was tranſlated and publiſh'd in the year* 1695, to prevent, *ſays the Biſhop of* Carlile [c] any Calumny that might hereafter be rais'd, of the like kind (*referring to that forged form of* Homage *ſaid to have been perform'd by our King* Malcolm III. *to* Edward *the Confeſſor, publiſh'd by Mr.* Rymer) and that the Subjects of both Kingdoms might diſcern on what equal terms their Anceſtors ſtood. *He adds,* The Author proves, that *Homage* or *Liege fees* were not known in this part of the World before the days of *Charles* the Great; *Nor was there a* King of *England* big enough to demand any ſuch thing before *Egbert*. The teſtimonies which our Hiſtorians (*meaning the* Engliſh) give of the matter ought to be rejected, as being Monkiſh, Domeſtick and Partial. Having abundantly ſhewn, that the Realm of *Scotland* could not poſſibly be a *Fee* held in vaſſalage under *England*, becauſe of the conſtant Enmity of the Two Nations. It muſt be acknowledged that he is Learned even in his Arguments againſt *Brutus* and *Clotenius*, and that his Weapons are ſolid and Subſtantial where he Fights only with Shadows and Hobgoblins. He is every where to hard for his Adverſary the Engliſh Hiſtorian [d]. *Thus far that Learn'd Prelate who is himſelf an* Engliſhman. *Whether the Book, which our Author Confutes, was* Holingſhed's *or* Harriſons *is, as I conceive, nothing material to the main Controverſy, neither the Conjectures there ſubjoin'd, and it is to be preſumed that the Biſhop laid no great ſtreſs upon them.*

[c] Scottiſh Hiſt. Lib. p. 278.

[d] p. 279.

Another Book written by our Author (who by the foreſaid Hiſtorian is called the Great Civillian) *has this Title,* De Origine Scotorum, *of which he ſays, he has ſeen an Abſtract.* p. 15.

This Great Man in all his works advanc'd true and uſeful Learning, and was a Faithful, as well as able Champion in defence of the Right of his Sovereign, and Vindicating the Honour of his Country, which kind of Piety Pro patre & patria, *has been highly priz'd in all Ages, and by all good Men. But his Adverſary ſeems to have been a man of quite contrary Temper, uſing his utmoſt induſtry and witked arts to ſubvert the Fundamental Laws of his Country, deſtroy the Right of the undoubted Heir, and embroil all* Britain, *if not the better part of* Europe *in Blood and Deſtruction.* Camden *ſays that* R. Parſons *was a Man of a ſeditious and turbulent ſpirit, and arm'd with a confident boldneſs, and that he tamper'd ſo far with the* Roman Catholicks *about depoſing Queen* Elizabeth, *that ſome of them (as they afterwards confeſs'd) thought to have deliver'd him up into the Magiſtrates hand* [a]. *When* Campian *was ſeiz'd,* Parſons *made haſt out of* England, *for fear of being ſnap'd alſo. He was reſtleſs in his endeavours to keep* Spain *and* England

[a] Camden in Annal. Regin. Elizab. Sub. Anno. 1580.

land *in difference, inciting the* Spaniard *to Invade* England *or* Ireland *again.* He wrote the Conference about the next Succeſſion of the Crown of *England*, under *the Name of* Doleman (*which our Author anſwers*) *with a deſign to bring* England *under the Yoke of* Spain. But ſo ſoon, (*ſays the* Oxford *Antiquary*) as this Book peep'd forth, which was accounted a moſt heinous and ſcandalous thing, the Parliament Enacted, *An.* 35. *Elizabethi* That whoſoever ſhould be found to have it in his Houſe ſhould be guilty of High Treaſon, but whether the Printer of it was hang'd drawn and quarter'd (as ſome ſay he was) I cannot affirm [b]. *I could preſent the Reader with* Parſons's *Character at large from Father* Watſon [c]. *and other writers of their own Communion. But the hints here given may ſuffice to let people ſee what opinion the World, and particularly* England *entertain'd of him and his Book about the Succeſſion,* &c. *And alſo the vaſt advantage which our Author has of his Adverſary in point of Character; The firſt being a Perſon of ſo clear and unblemiſhing reputation, that no Author ever offer'd to tarniſh it in the leaſt, but always mention him with the higheſt encomiums, whereas moſt Authors both Popiſh and Proteſtant, as they had occaſion to ſpeak of* Doleman, *have branded his Memory with indelible* Stigmas.

[b] Athenæ Oxon.

[c] Watſon's Quod libet's, p. 236.

The Originall Manuſcript of the Two Books which are now Tranſlated is ſtill carefully preſerv'd in the Library of the College of Edinburgh, *of which there is a good Copy in the Advocates Library there. And there are alſo other Copies of it; But that which I have made uſe of, was taken from the Original, by the Order and care of the late Learned Principal of the College of* Edinburgh, *Doctor* Alexander Monro, *(my worthieſt Friend, whoſe loſs I can never ſufficiently lament) with a deſign to have it Printed with* Prolegomena *done by himſelf. But his troubles under the laſt Government crouding upon him, render'd that excellent deſign ineffectual, his Papers being ſeiz'd, and the Manuſcript it ſelf narrowly eſcap'd. And tho' he was ſeveral times Arreſted and at laſt ſhut up in a Priſon full Six Months, yet he was diſcharg'd without* Bail *or* Mainprize; *which I take notice of, as a full Evidence, that even that Government (which deſtroy'd the National Church of* Scotland, *and aboliſh'd it's ancient and Apoſtolical Government by Biſhops, and turn'd him out of his Living in the City, and his other honourable Poſt which he ſo well adorn'd being head of the College) found no fault in him. But his grievous impriſonment occaſion'd his long Sickneſs, of which he died. Thus that great man, who was entirely belov'd of all good men, and greatly eſteem'd by men of Learning, a true Son of the Church, and Learned Aſſerter of its Government and Rights, was cruſh'd by Fanatical Malice and Fury. Now to return to the Manuſcript, It was not only taken from the Original and afterwards return'd to* Scotland, *and diligently collated both with the Original and that Manuſcript which is in the Library of the Advocates, by two Reverend and Learned Clergymen, but had likewiſe the atteſtation of the profeſſors of the College of* Edinburgh.

As for the tranſlation, I ſhall only ſay that I have done my beſt faithfully to give the full ſenſe of the Author, tho' I cannot pretend that my Stile is either Fine or Elegant. However 'tis hoped that the Judicious and Candid Reader will neither be ſhockt at it, nor at any loſs to underſtand it. And I could not but think, that it was better it ſhould be done as I could, than not at all. I have been at pains to examine moſt of the Citations, that the work might not ſuffer by any miſtakes or negligence in the tranſcriber. There are indeed ſome Citations from foreign Lawyers, whoſe Books I could not poſſibly meet with here; But where I doubted of the ſenſe of ſome Law Sentences, even after I had my recourſe to Calvin's Lexion Juridicum, *and both the* Corpus Juris Civilis *and the* Corpus Juris Canonici, *I have given them both in* Latin *and* Engliſh. *There are ſtill ſeveral errors and wrong paintings in the printing, which are not mark't among the* Errata, *but they are ſuch as the intelligent Reader may eaſily correct.*

Con-

Concerning the SUCCESSION OF THE Kingdom of England.

THE FIRST BOOK.

CHAP. I.

Contains a proœmial Diſcourſe about the manner of handling Controverſies, in matters of great importance; with the Author's deſign and the occaſion of this Work.

The occaſion of this Controverſy.

NO one ought to think it ſtrange, if thoſe who for a conſiderable time, have lived in a well govern'd City or Commonwealth, ſhew a hearty concern for its Safety and Proſperity, and if they oft diſcourſe among themſelves of what may conduce thereto; eſpecially when grievous troubles from abroad alarm their fears, and ſeem likely in a ſhort time to embroil the State. For tis natural and almoſt unavoidable for all men, to pleaſe themſelves with thinking and ſpeaking often of ſuch, as they have a ſincere Affection for, and whoſe welfare they earneſtly deſire. And I cannot therefore but hope for pardon, if as one of many, I briefly declare both my own Sentiments, and what I have from others, with regard to the imminent Dangers and Calamities, which threaten all *Britain*, upon the death of the moſt Auguſt Queen of *England*; inaſmuch as Silence in this caſe wou'd be a publick Injury, there being yet an opportunity, by the bleſſing of God, on wiſe Counſels, and mature and well weighed Deliberations to divert thoſe dreadful Storms. This is doubtleſs juſt matter of admiration, that in an affair of the greateſt Conſequence, and wherein the Safety of all, is nearly concerned, there are ſo few who will ſpeak their mind freely, and yet fewer who will undertake to detect, oppoſe and baffle, the Calumnies and Artifices of our crafty Enemies, that inſidiouſly watch for our Common ruine. Many put it off, as hoping to make their Fortune afterward by their Wits, others being Flatterers of Princes, or time Servers, either dare not

or will not concern themſelves in a matter of this nature: Too many in hopes of an occaſion to raiſe themſelves by the ruine of many others, impatiently Long for the Tragical event.

For my own part, tho' it is not fit to make any nice enquiry into the Age of the moſt Serene Queen, nor what ſhe would be well pleaſed with, yet ſeeing this Succeſſion is now the Common Subject of all peoples Converſation, and our Neighbours have a watchful Eye upon it, and grievous Commotions and Convulſions are juſtly feared in this moſt noble Iſland, new Preparations heard of, and which is moſt Vilainous, Scandalous Books, and Pamphlets begin to be publiſh'd and diſpers'd, calling in queſtion what is not in it ſelf the leaſt doubtful, on purpoſe to ſeduce the unskilful and unſtable Common people, and to raiſe Seditions among them, I could not therefore, but conclude farther Silence, in theſe matters, to be an heinous crime, and a ſhameful perfidiouſneſs and treachery againſt our Common Country and our Soveraigns. For ſeeing there is ſuch an entire and happy Friendſhip between the Princes of both Kingdoms in *Britain*, and this faſtned with ſo many bonds of Conſanguinity and true Affection, whilſt moreover the purity of the ſame true Religion cements the affections both of Princes and People, 'tis certainly the duty of Loyal Subjects and true lovers of their Country, to uſe their beſt endeavours, for preſerving and cultivating the ſame mutual confidence which God has been pleas'd thus to eſtabliſh between them; and to the utmoſt of their power ſecure the continuance of this moſt happy Union, from being interrupted or diſſolv'd by any new attempts of reſtleſs and ill-deſigning men. Whereto may alſo be added the Love which we owe to our Common Country and whereof we can give no greater proof, than by making it's welfare our chiefeſt concern; for as *Cicero* ſaid, *Our Parents and Children are dear to us, ſo are our Kindred and Friends, but it's our Country alone which comprehends all endearments. For what good man wou'd ſcruple to loſe his life, ſo he were but well aſſured that the loſs of it would redound to his Country's advantage?* How barbarous and deteſtable then is the Cruelty, of ſuch men as make it their buſineſs, to tear in pieces, and as much as in them lies, utterly to ruine their own Country? *Britain* is the Common Country of both *Engliſh* and *Scots*, as we all know and own, which while divided into two different Intereſts, and disjoin'd from one another not only by Rivers, but by Jealouſies and Emulations, was a pleaſant ſight to our Enemies, but a very direful one to all the lovers of true Piety. And ſhou'd the opportunity of this happy Union be neglected, no ſound and laſting Peace and mutual agreement can ever be again hop'd for. Neither is it more the concern of any, to have an end fairly put to this pernicious Controverſy, than it is of the moſt renown'd Queen of *England*, that ſo the good people of *England* who have ever been Loyal and Obedient to her Majeſty, may after her death enjoy a continued Peace and tranquillity. No Kingdoms feel greater Commotions, or heavier Calamities, than thoſe which have been moſt Flouriſhing, when they come afterwards to be Embroill'd, and find their motions ſo Irregular and Convulſive, that they know not where to ſtop, till they are upon the very brink of Ruine. Let us therefore but take liberty to ſuppoſe what according to the courſe of Nature muſt needs be at no great diſtance, (though we cannot at the ſame time but beſeech Almighty God that it may happen very late) I mean the deceaſe of the moſt Serene Queen, it will then be too late to enquire after the true Heir of the Kingdom, to whom the right of Succeſſion

Silence, when our Country is in imminent danger, is a moſt heinous Crime.

Lib. 1. Officiorum.

A man ought chiefly to mind the welfare of his Country.

It concerns the Queen chiefly not to leave the Succeſſion undetermined.

ceſſion belongs, that Queſton will be little minded; for thoſe who through an erroneous Opinion or miſtaken Principles, are induced to believe that they have a Right to the Kingdom, will ſtraight have their recourſe to Arms, as truſting little to Right and Laws; or at leaſt hoping that they who contend for a Kingdom, can never want Right. Hence will ſpring Factions and wicked Combinations, hence Tumults and Seditions, with the flames of which this moſt noble Iſland muſt burn, or it may be, it will be canton'd out into as many Kingdoms as there ſhall be Competitors for the Government. In the mean while, ſcarcely any Man dares ſay, that any thing he Poſſeſſes is his own; inaſmuch as the Eſtates and Subſtance of Private men can never be ſafe, while the Publick is in Confuſion. Our Neighbours, no doubt, will be pleaſed and rejoice in hopes to ſee thoſe flames, by which *Britain* may ſuffer a Conflagration; nay, they will not be idle Spectators, but be ſure to blow the Coals, when they have a proſpect to partake of the ſpoils. For Ambition, or the Luſt of Reigning, is not bounded within the extent of thoſe Territories, over which they bear ſway or Rule, neither the higheſt Mountains, nor the moſt rapid and unpaſſable Rivers, nor the rougheſt or moſt dangerous Seas, with all their Rocks and Shelves can confine it, no ties of Blood or Nature, no Alliances, Leagues or Treaties tho' ratify'd and confirm'd with never ſo many ſolemn Oaths, are ſufficient to keep Men to their duty, when the Queſtion is about Empire. For the eager deſire of Reigning is not govern'd by Reaſon, it eaſily burſts aſunder all Bonds Sacred or Civil. What will not he dare to do, who is ſpur'd on with the Ambition of being a King? What will he ſtick at? Take for an inſtance, *Humera* the *Moor*, this Man through his Ambition, having form'd a deſign to make himſelf King of *Corduba*, which at that time belong'd to the *Arabs*, and having entred the Town with a ſufficient body of Troops, was admoniſh'd by his Friends to give over that Enterprize of his, becauſe of the extream perfidiouſneſs of that People, which, with the Calamity of thoſe times, ought to be a ſufficient warning to him, not to attempt any ſuch thing. For they had killed no fewer then Six or Seven Kings of that City, in a ſhort time before. He returns his Friends this Anſwer; *Hodie me Regem dicite, cras perimite!* Let me be but a King to day, and I will be content to die to morrow! Such is this impotent deſire of being a King! So highly charming is the proſpect even of the ſhorteſt Reign. 'Tis not to be doubted, but our Neighbouring Potentates watch all opportunities to ſerve themſelves of us. The moſt powerful Monarch of *France* is neareſt to us, and the yet more potent King of *Spain* is at no ſuch diſtance from us, as to diſcourage him from renewing his attemprs upon us. Both the fruitfulneſs of the Soil, and the kind affluence of all things, are invitation enough for a Foreign Army, to look out for new Habitations among us. Neither has any part of the World afforded more inſtances than *England*, of being often Invaded for the Richneſs of it's Soil, and ſometimes alſo Seiz'd by way of Conqueſt. Examples of former Ages are indeed too Tragical to be remembred, nevertheleſs they may be a moſt uſeful caution to avoid ſuch miſeries for the time to come,

Private men's Eſtates are in danger, when the publick is embroiled.

The Story of the Ambition of Humera.

Mariana. Lib. 8. Cap. 10. Derebus Hiſpaniæ.

Whoſoever therefore, wiſhes the welfare of *Britain*, (and it's no more than what all who are born in it are obliged to wiſh) is concern'd to enquire carefully, in what perſon this right is lodged, and to whom the Succeſſion of this moſt noble Kingdom doth truly and juſtly belong, whilſt it may be ſafely done

done. For there is too much reaſon to fear after the ſetting of this declining Sun, by whoſe beams *Britain* is at preſent enlightned, as the Poet ſays,

Ne jus injuſtum rigido dicatur ab enſe.

Leſt the Sword being once drawn, *right ſhould preſently be called wrong.* Then we ſhall be under a neceſſity of obeying the Victor, who will not ſuffer his Right to be call'd in Queſtion, whilſt he has the longeſt Sword, will force Men to be ſubject to his Government whether they will or will not, and he will be owned for our Maſter, whom angry and fierce *Mars* puts upon us, as the Poet ſaid, *Armato nullus Divum pudor*, there is no regard had even of God, by arm'd force. How ought we then to obviate the inconveniency of dilatory Counſels, which find out the moſt excellent expedients, when the time and opportunity of executing them is loſt.

The Author's deſin in this Controverſy, is only to conſider the point of Right.

This I truly declare before I proceed farther, that our whole Diſcourſe, whatever it may be, ſhall be confin'd to the point of *Right* or Law, and that I have nothing before my Eyes, but the true Intereſt of *Britain* in conjunction with its Honour, and this ſhall be as it were, my Pole-Star, which I ſhall keep continually in my view, and at which all my reaſonings ſhall aim. *For*, as *Ariſtotle* ſays, *other Animals being deſtitute of reaſon, are enſlav'd to anger, envy, and brutal affections; And no wonder then if Men, in whom ſuch baſe affections reign, be toſſed hither and thither; according to the impulſe of ſuch domineering paſſions. Man only is endued with Reaſon, and while he governs himſelf according to its dictates, he is the beſt and nobleſt of all living Creatures, but if deſtitute of Reaſon and Juſtice, he becomes the very worſt. For*, adds he, *where things are not under the Conduct of Reaſon, where Juſtice, Right and Equity are not duly regarded, 'tis not to be thought they are Men, but only enraged and breathing Images of mankind. For injuſtice is of all things the moſt Cruel and outragious, eſpecially if back'd by Force and Arms: Man is endow'd with Wiſdom, Vertue, and Juſtice, for his Defence againſt Force and Violence, and therefore*, ſays he, *without Juſtice a Man is the vileſt, as well as moſt wicked of Animals.* Juſtice is certainly a very humane thing, and Righteouſneſs is the bond or meaſure of all civil Society, ſo that in giving judgment after the Parties are heard, deciſion according to *Right* is the ſource and fountain of all Equity.

Ariſtotle Lib. 1. πολιτικῶν.

Many more aſſertions of this nature, are to be met with in the Writings of the Ancient Philoſophers, eſpecially in *Plato*'s, who makes right Reaſon, by which alone Men are diſtinguiſh'd from Brutes, to be the very *baſis* of all good, and chiefly of civil Society. The Common-Wealth, ſays he, which reſts and is grounded upon it, ſhall flouriſh, but without it, 'tis upon the brink of ruine, neither can there be any civil Society rightly conſtituted, but where right Reaſon and Juſtice take place. Wou'd we then maintain the dignity of humane Nature, and keep at the greateſt diſtance from the cruel, rapacious and moſt bloody temper of the Beaſts and Birds of Prey, we muſt neceſſarily diſtinguiſh our ſelves by our careful obſervance of, and obedience to the Laws of God in the firſt place, and then to all ſuch humane Laws and Conſtitutions as are not diſagreeable to them, and flow from lawful Authority. This is the true way for attaining and ſecuring the ſafety and proſperity of *Britain*. An affair of ſo great conſequence deſerves a fair tryal, by Reaſon, Law, and Statutes; and Juſtice her ſelf being, as it were, Judge, placed upon the Tribunal, we are carefully to enquire, and to weigh in an equal ballance, what right Reaſon, what the Laws of God, and the

Laws

Laws of Nature, and what humane Laws founded upon Equity and right Reaſon, do ordain in this caſe. Is there any Man who is a friend to Civil Society, or deſires heartily the Peace and Tranquility of his Country, but will reckon that this Controverſy concerning the *Succeſſion*, ought to be determined from the undoubted Laws of God and of Men. Nor ſhall I inſiſt longer in the proof of this aſſertion, Seeing our buſineſs is with good Men, and ſuch as are the greateſt Lovers of Juſtice, as they are alſo of their Country, and who can judge of this whole Controverſy according to Equity and right Reaſon, what ought to be preferred or rejected, what we are bound to Chuſe and Embrace, and what is to be Avoided, and as it is the Proverb, *Cum bonis bene agier*, good men deſerve to be gently Treated. For no people in all *Europe* have been more obſervant of their Kings than the *Engliſh*, none have greater natural Endowments, and few have a more liberal Education, or a greater Share of Learning. Wherefore we may hope for ſuch an Iſſue of this our undertaking, as is to be expected from good men, and moſt firm Obſervers of Equity and Juſtice, in an Affair, which, unleſs we are greatly deceiv'd, is not in the leaſt doubtful. For 'tis not poſſible that it can fall out otherwiſe, if they carefully examine this whole matter by the divine Laws, (to which the firſt and higheſt regard is due in every Controverſy,) and by the Law of Nature; Nay even by their own Municipal Laws. Nor can it even be thought that, in an affair wherein not only the Tranquillity and repoſe of all the Subjects, but even their Safety is concerned, they will do a thing, for which all poſterity will heap curſes and direfull execrations on their hated Memories, as having taken no care, when they ought to have done it, and had the opportunity, to Lodge the *Britiſh Ship* in a moſt Safe Harbour, as it was beginning to be Driven, and was Threatned with the moſt Dreadful Hurricanes, eſpecially of Civil and Inteſtine Wars.

CHAP. II.

Monarchy is the moſt Ancient, and the beſt of all Governments.

THO' at firſt I had not the leaſt deſign to write of the Excellency of Monarchy, Seeing ſo many Philoſophers and great Men, have Labour'd ſucceſsfully in ſetting forth its moſt juſt praiſes; and knowing that our Neighbours, are of all things, leaſt capable to entertain any thought, of altering that Form of Government which they derive from their Anceſtors, or of Introducing Ariſtocracy or Democracy, as ſome reſtleſs Incendiaries, wou'd perſwade them that they may and ought to do. Such falſe Suggeſtions oblige me, tho' unwillingly, to ſay ſomething of *Monarchy*, before I enter upon the preſent Controverſy, concerning the *Succeſſion*. For we are attack'd by our Adverſaries chiefly from that quarter; tho' with a ſeeming Modeſty, as knowing that Opinion to have been already exploded by all, but yet with all their Cunning and Sophiſtry. For thus they infer, Monarchies or Kingdoms derive not either from any Divine right, nor from that of Nature, otherwiſe they wou'd be immu-

table ſeeing God and Nature change not, but only from the poſitive Laws and Inſtitutions of men, as they ſay: And therefore, as the People for ſome probable Reaſons, did at firſt Eſtabliſh it, ſo may they alſo Aboliſh it, ſeeing nothing is more Natural, than for any thing to be diſſolv'd the ſame way as it was Conſtituted, or as *Juſtinian* ſaid, *whatever Ordinances any City makes for its ſelf, they may be alter'd either by the Tacit Conſent of the People; or by another Subſequent Law.* And conſequently Kings may be chaſtiſed by the People, as by a Superior Power, upon any probable occaſion; And if the People can do that, then much more by the Laws of reaſoning, and the Maxims of the Law, may their Offspring be rejected and debarred by the People from the Succeſſion, For according to that Proverb.

Turpius ejicitur quam non admittitur Hoſpes.

This is the only aim of *Doleman* throughout his firſt book, that if poſſibly he can, he may make Kings Subject to the People, or if he cannot compaſs that, he may at leaſt overthrow the rights of Succeſſion. 'Tis neceſſary then in the firſt place to expoſe this perverſe opinion our Adverſaries propagate concerning Monarchy, that it is neither of God's appointment, nor from *Natural Law*, by which all the pernicious Doctrines and Inferences they ſuperſtruct on that Foundation may fall to the Ground. They propoſe for Examples the Ancient *Athenians*, *Thebans* and *Romans*, and for Latter ages *Venice*, the *Swiſs Cantons* and other Democracies no doubt for our imitation; and that they may clandeſtinely and inſenſibly catch the multitude, they raiſe their hopes, and tempt and tickle them with ſome appearances of advantage. Nothing catches the Mob more than popular declamations, whereby the Authority of their Superiours is leſſen'd, and the advantages and Strength of the People magnified; untill at Laſt they arrive at that height of Inſolence that they neither Honour their Kings, nor Obey the Laws. In this diſpute my task is the eaſier, and the ſooner over, becauſe it has been already fully canvaſs'd and diſcuſs'd by moſt Learned men, and our Adverſaries themſelves, overcome by truth, are forc'd to acknowledge our opinion to be true, That Monarchy is the moſt excellent of all forms of Government, where there are faithful Councellours, and the Laws duly obey'd, which two things ſtill attend the moſt Imperious Monarchy.

Doleman chap 1. 2.

In this Controverſy concerning Monarchy, our firſt enquiry ſhall be concerning its Inſtitution, and who was its Author; for this point is moſt ſharply diſputed between us, and our Adverſaries, who neither allow God to be Author of it, nor that it has been inſtituted by Him, but that it was introduced by the poſitive inſtitution of men, to uſe their own phraſe, for they Suppoſe every Nation to have choſen and appointed that particular form of Government, which they reckon'd moſt profitable and convenient for the ſafety and preſervation of their civil Society. We on the contrary contend that Monarchy is of a Divine Original, ordain'd of God, and that no other form of Government obtain'd among his peculiar People, yea that no other is ſo conducive to the ſafety of any Nation, nor is ſo agreeable to the Laws of God and Nature. Yea moreover I undertake to prove, (with Gods aſſiſtance) that it has been receiv'd by the conſtant practice of all ages, and the perpetual cuſtom of all Nations.

To begin then, as we ought, with the Law of God, who is infinitely Wiſer than Man, we find it recorded in holy Scripture: *In thoſe days there was no King in Iſrael; but every man did that which was right in his own eyes.* Which

Judges. 18. v. 1. 19. v. 1. 21. 8. 25.

words

words import that a disorder and confusion of all things and ranks of men, obtain'd among the People, until God was pleased to Establish Kingly Government in *Israel*; and that those evils were not to be otherwise remedied than by appointing a King to Reign over them.

Shou'd we trace Mankind to its first rise; shou'd we go back and consider the origin of Nations, we shall meet with nothing in the sacred History, but what makes for our purpose, that Monarchy is the most ancient form of Government, brought in almost with mankind, and that therefore it will easily appear to be the most excellent: For the *first Fathers of that Golden Age*, says *Plato*, *had greater affinity to God, and were wiser than we are*. Neither would they have receiv'd that kind of Government, much less preserv'd it untainted and entire by perpetual use, and custom, unless they had found it most useful, and judg'd it most conducing to the ends of Government, the safety and well-being of human Society; it being in their power to abolish it, had they thought it an unsupportable yoke; Experience, according to the Proverb, is the Schoolmaster of Fools, and what has obtain'd by long Custom, is also profitable, and ought not to be alter'd.

After the Flood, when Men multiply'd again on the Earth, they seem to have wandred about naked and fearful, and being expos'd to the violence of wild Beasts, to have chosen *Nimrod* (who as the Scripture says, was a mighty Hunter) to defend them from all violence. He was the great Grand-Child of *Noah* by *Cham*, and the first was made a King by a willing and uncompell'd People; tho' most People reckon him the first Tyrant. And tho' in Sacred History he is call'd a *mighty Hunter* or Warriour *before the Lord*, yet I cannot altogether condemn him, who was the first that reform'd Mankind from their brutal and wild way of Living, as appears from the building of so many famous Cities in his time, and what else is a City *Cicero* tells us, but *Societas hominum jure congregata*, a Society of Men gathered together by Law. And the same Author affirms that nothing can be more acceptable to God, who governs the whole World, *Quam Concilia Cœtusque hominum Jure Sociati quæ civitates dicuntur*, Than a Company or Assembly of Men combin'd together in Society by Law, which are call'd Cities. Neither can any thing else be meant by the building of so many and so considerable Cities as are mention'd in the Sacred History; but that by his means and conduct, Men did first begin to incorporate into Societies. What else was a City then but the Union of many Families under one Prince? As a Family was only a company of Children and others under the Head or Master of a Family, who was the *Major domo*. Wherefore, as the Multiplication of Children gave Rise to many Families, who not agreeing well among themselves, chose one to whom all the rest were to be Obedient, and by whom they were to be Govern'd in Common: So they made choice of a Robust and Stout Man for their Head, as Hunters commonly are, who was capable to defend them by Force against Violence and Injuries. Many of those Families combining together, grew into one Society or City; of which *Nimrod* seems to have been the first contriver. He is said to have built great Cities: No wonder then if for so great a benefit, the People chearfully own and submit to him as their Sovereign; great favours bestow'd, make one to be much regarded by the People, and engage them to the person who has oblig'd them. 'Tis natural for Men to be very observant, to reverence and esteem him who Redeems them from Violence, and Secures them

Nimrod *the first King.*

In Somnio Scipionis.

them againſt Injuries. Neither do I ſee any reaſon why the *Latines* have been ſo profuſe in their Panegyricks on *Romulus*, or the *Grecians* in praiſing *Theſeus* and *Cadmus*; but becauſe (as I juſt now obſerv'd from *Cicero*) what they did was moſt acceptable to God, that the firſt built *Rome*, *Theſeus*, *Athens*, and *Cadmus* built *Thebes*, all of them goodly Cities, teaching others at firſt Juſtice, and obſerving it themſelves. The like praiſes are given to the Founders of other Cities both *Latines* and *Greeks*. Why then ſhou'd the Memory of *Nimrod*, who Founded more Cities, not inferiour to *Rome*, *Athens*, or *Thebes*, and conſequently deſerv'd more than the Founders of them, be Reproach'd and Condemn'd?

If it be objected againſt him, that the Scripture calls him *a mighty one in the Earth*, and that he was a *mighty Hunter*; I think that there is nothing in thoſe Expreſſions, but what may bear a good conſtruction; for how ſhou'd Refractary and Diſobedient People, be brought under Obedience to Laws, unleſs compell'd by one more Powerful. And ſuppoſing that *Nimrod* appointed Puniſhments for the Tranſgreſſors, as well as Rewards for the Obedient, this is ſufficient for this Character given him, of *mighty Hunter*; He may be ſaid to be Mighty, becauſe by his Strength and Courage, he defended the Weaker from the violence of the Stronger; as well as from Beaſts of Prey. Some underſtand by a Hunter, a Robber, but they ought to conſider that even that word of *Latrocinandi* which is commonly uſed for Robbing, is ſometimes applied to Warring, and *Latro* is made uſe of by approv'd Authors for a Warriour. And *Xenophon* makes hunting a certain *Species* of War. I reckon *Nimrod* to have been a great Man, and the firſt, who made Juſtice to be duly regarded; without which Societies or Cities cannot Laſt. Neither do I think the words *before God* are to be taken in an ill Senſe, when in moſt other places of Scripture they are uſed in a good one. *By God Kings* are ſaid to *Reign*, and *Enoch*, to have walked *before God*. And was I to make uſe of *Doleman*'s Argument, extraordinary ſucceſs happen'd to his Kingdom; and the Lord ſeems to have bleſſed him above all Kings: For beſides that he was look'd on by *Daniel* as the Golden part of that Statue, which was repreſented, to *Nebuchadnezzar* in his Dream; the *Aſſyrian* Monarchy which had it's beginning from *Nimrod*, and was of 1300 years continuance, laſted longer, than any other great Monarchy in the World. But whether it was by his Example, or Divine inſtinct as is moſt credible; or by Natural inſtinct, 'tis certain that in his time Men did firſt incorporate into Societies, mutual Friendſhip obtain'd; and Injuries and Violence by theſe happy Combinations were reſtrain'd, Cities took their riſe from the political Combinations of many Families, Juſtice came to be adminiſter'd between Man and Man, and for thoſe ends, Kings inveſted with power, were ſet over them, and acknowledged by them, whoſe memories were honour'd for their merits to the publick, and they were Succeeded in their reſpective Kingdoms by their Children; Hence it is, that in Sacred Scripture we meet with ſuch numbers of Kings, for beſides the Four Kings that invaded the Five which liv'd in the plain of *Gomorrah*, in that narrow tract of ground, we meet with *Abimelech* King of *Gerar*, or of the *Philiſtins*: there was likewiſe *Pharaoh*, and *Melchiſedech* King of *Salem*, who being a great type of our bleſſed Saviour, deſerves in an eſpecial manner to be remembred; to be ſure he wou'd never have born that office of a King, unleſs he had been perfectly aſſured that Kingdoms were of God's appointment, and approv'd of by the King of Kings, *Moſes* was appointed of

Xenoph lib. 1. pædiæ Cyri.

Coram Deo, quia partem prædæ Deo dabat. Abeneſdra.

of God, to be Leader of His people, and also by Him honoured with the name of King, *Deut.* 33. 5. No doubt he had a Kingly power, and seeing the thing is undeniable, 'tis to no purpose to contest the word. *Philo Judæus* calls *Moses* a great King and a most holy Prophet. When God ordain'd a form of Government for his People and gave them his Laws by *Moses*; among others he also gave the Law, and declar'd what the manner of the King should be, that shou'd be set over them. Now what imaginable account can be given of this *manner of their King*, instituted by God, if he did not approve both of Kings and Kingdoms as being of His own appointment: And *Moses* before his Death, from his great concern for God's People, prays that God wou'd be please to chuse one Man over them, *who might go out and come in before them*, that is, Govern them; and by God's designation, appointed *Joshua*, his Successor, *Numb.* 27. 17, 18. Why did he pray so earnestly *to the Lord the God of the Spirits of all Flesh, to set one Man over the Congregation*, if it was not that he prefer'd the Government by one to all other forms of Governments? Or wou'd God have granted his Petition, unless he had approv'd of the Government of one as the most equitable and profitable for Ruling so great a People? Neither ought we to think that *Joshua* wou'd have agreed to it, had he not been fully satisfyed, that it was according to the will of God; and that God was the Author of that kind of Government. It deserves our regard also, that among other great blessings, which God promis'd His people, the chief is, that he would make them a *Kingdom of Priests*, or Royal Priesthood, *Exod.* 19. 6. *i. e.* a Pious and Righteous *Kingdom* and obedient to the Laws of God. After *Joshua* other Judges ruled over them with a Kingly power; which consists chiefly in judging them, that is, administring Justice impartially to them, and being their Commander in War, Leading them forth to Battel against their Enemies, for God was pleas'd to give the Power of Peace and War to one, so that there was no place for *Aristocracy* or *Popular Elections*. It was God alone that *raised up those Judges*, Judg. 3. 9. and 15, *&c.* and He rais'd them up a *Saviour* or Deliverer, *i. e.* He stirred up the People to assemble together under one Commander, appointed by Himself, to make head against their Enemies; tho' in those days the Civil Government was not fully settled among them. But when the time came in which God was to Settle its form in all the Dimensions of it, He neither appointed *Aristocracy* nor *Democracy*. So far from it, that there is no mention either of one or other of these Governments in all the Sacred Scriptures. Whereas he appointed Kingly Government, first in the Person of *Saul* and afterward in *David* and his Seed for ever. And they who would not own *Saul, but despis'd him, and brought him no presents*, are Branded *as Sons of* Belial, 1 *Sam.* 10. 27. Monarchy alone was the Government receiv'd in that State, tho' there has not been an Age of greater Virtues, or so far from the horrid Crimes which at this day oppress us. Again the Conspiracy of *Corah, Dathan and Abiram*, and other two hundred and fifty Princes in *Israel*, and their punishment, witness sufficiently how greatly God abhors and detests either *Aristocracy* or *Democracy*. For when these Rebels, envied the Monarchy of *Moses*, and cou'd not bear his Soveraignty, but aim'd to share with him in the Government in an Aristocratical manner, and broke forth into such Seditious expressions as these, *Ye take too much upon you, seeing all the Congregation are holy every one of them, and the Lord is among them, wherefore then lift you up your selves above the Congregation of the Lord?* Numb. 16. 3. By which words it's plain they

Moses *King of the people.*

Lib. 3. de vita Mosis.

σωτῆρα

Monarchy was always the Government of the Jewish State.

deſired to be join'd with *Moſes* and *Aaron* in a Partnerſhip of the governing Power, God gave Sentence againſt them by a new and wonderful event; for the Earth open'd it's mouth to receive them, and the Remainder was conſumed with Fire from Heaven.

Many more Texts may be brought from holy Scripture, and the Writings of the Prophets, in confirmation of this Truth, and to make it evident that Monarchy is of divine Inſtitution, and that God appointed Kings to Rule over his People. *By me Kings Reign*, ſaith the Lord, *and Princes decree Juſtice*, Prov. 8. 15. And *Samuel* ſaid to *Saul*, that *the Lord hath rent the Kingdom of* Iſrael *from thee, and given it to a Neighbour of thine that is better than thou*, 1 Sam. 15. 28. And in another place, *I anointed thee King over* Iſrael, *and gave thee the Houſe of* Iſrael *and* Juda, 2 Sam. 12. 7, 8. And *Solomon* ſware, *as the Lord liveth, which hath Eſtabliſh'd me, and ſet me on the Throne of* David *my Father*, 2 King. 2. 24. And afterward to *Jeroboam* the Lord ſaith, *I will rend the Kingdom from the hand of* Solomon *and give ten Tribes to thee*, 1 King 11. 31. And of the ſame *Jeroboam*, *Foraſmuch as I exalted thee, from among the People, and made thee Prince over my People* Iſrael, *and rent the Kingdom from the Houſe of* David, *and gave it to thee*, 1 King. 14. 7, 8. And in another place, *Foraſmuch as I raiſed thee out of the duſt, and made thee ruler over my people* Iſrael. So *v.* 14. *The Lord ſhall raiſe up a King over* Iſrael, *who ſhall cut off the Houſe of* Jeroboam *that day. 'Tis God that raiſes the Poor out of the duſt, and lifteth up the Beggar from the dunghil, to ſet them among Princes, and to make them inherit the Throne of Glory*, 1 Sam. 2. 8. And the Royal *Pſalmiſt* ſaith that God *was his Shield* or protector, *who ſubdued his* People under him, *Pſal.* 144. 2. *i. e.* Who gave him power and authority over his people. St. *Paul* tells us, That *there is no Power but of God, whoſoever therefore reſiſteth the Power, reſiſts the Ordinance of God, and they that reſiſt ſhall receive to themſelves damnation*, Rom. 13. 1, 2. From all which teſtimonies, and many more which may be brought from the Sacred Scriptures, it is moſt evident to all candid and ingenious perſons, that Kings were at firſt ordain'd by God, yea our very Adverſaries are forced againſt their wills, to own this truth, that Monarchy was from the beginning, of Gods appointment, and brought in by Him, as the true expedient, for reſtraining the Ambition of ſome, preventing or removing Strife and factions; and obliging His people to live orderly. Which can never be hop'd for, but when good Laws and good Government take place, and are obey'd.

That order therefore ought inviolably to be kept which God Himſelf inſtituted, *i. e* that all other Creatures are to be ever Subject to and obey man, men to honour their King, and the King to obey God to whom he is accountable. For we have received the form of Government, or publick adminiſtration, to wit, Monarchy, from the Immortal God, as well as our being men, whereby we are fit for Society as *Ariſtotle* ſays, that the Heroes of that Golden age, yea the very Gods, (whoſe lives, ſays he, were moſt happy) liv'd under Monarchy. And I have made it appear from the Sacred hiſtory from which only we have true accounts of the firſt ages of the World, that Monarchy then obtain'd. From what I have ſaid its evident that Kingdoms were from God, and of His Inſtitution only, and conſequently Monarchy is the beſt of all Governments, and beſt fitted for maintaining the Safety of the people: Ordain'd at firſt by the Infinitely wiſe God, who could enjoin nothing to his own People, but what

Lib. 1. *polit.*

was

was for their Safety and Intereſt. I ſhall diſcourſe afterwards of the other advantages of Monarchy.

CHAP. III.

Monarchy proceeds from the Law of Nature, and is much more agreeable to it, than any other Form of Civil Government.

IN this Chapter I am to try, whether Kingdoms and Kingly Government be alſo agreeable to the Law of Nature, which is a point that our Adverſaries do much more conteſt. For, ſay they, Nature has given no ſuch preference to one man above another, it has not diſtinguiſh'd the Lord from his Footman, but all men are on a level by the Law of Nature; ſo that according to their Opinion, Empires and Kingdoms obtain'd meerly by the Law of Nations, when force prevail'd. Firſt Strife and Wars took place; and from thence Empires, Dominions, Servitude and Manumiſſions were brought in. They affirm that nothing can be ſaid that is more abſurd or unreaſonable, than for *one, to be call'd a Natural Prince or Natural Succeſſor*, Doleman I. Part 1. Ch. This I think is to affront the Laws of *England*, that Word Natural Lord or Prince, being frequently mention'd in their Statutes. Their Hiſtorians uſe it without Scruple, eſpecially in that Letter in which the Peers of *England* invited home their King *Ethelured*, whom *Sueno* drove into exile in *Normandy*, and declare themſelves ready to acknowledge and receive *their Natural Lord*, and many other grave Authors often make uſe of the ſame Word, ſuch as *Roderick* Arch-Biſhop of *Toledo*, a man for thoſe times, both Pious and Learn'd, he calls *Berengaria* who was Heir of *Arragon*, thrice in one Chapter the *Natural* Soveraign and Princeſs of the *Arragonians*. But not to detain the Reader with many more inſtances to this purpoſe, which I could bring from the ſame Author, 'tis ſufficient to obſerve that the *French* Lawyers, in the great meetings of the Eſtates of that Kingdom, always uſe the word *Natural Lord*, as oft as they ſpeak to the King. This is witneſſed by *Bodinus* lib. 1. *de Republica* Cap. 8. And there is good reaſon for uſing it; for Princes, who by right of Blood inherit their Crown naturally, are ſaid to ſucceed according to the Right or Law of Nature; For it ſhall be made appear afterwards to a demonſtration, when I come to treat particularly of the affair of Succeſſion, that Succeſſion by blood is *ex jure naturali*, from the Law of Nature.

Hoveden. Malmesburienſis, *and other Engliſh Hiſtorians.*

Rodericus Toletanus *Lib.* 7. ſuæ Hiſtoriæ. *cap.* 1.

Bodinus.

No man then can be guilty of more folly and levity than *Doleman* is, who ſometimes forgetting himſelf, grants that *Magiſtracy is of Nature, to keep Order among men, without which, nothing elſe is to be hop'd for but Horror and Confuſion.* Now if Nature introduc'd Magiſtracy, why not Kings and the form or Manner of the Regal adminiſtration; ſeeing of all Magiſtrates Kings were the firſt, and chief? But that we may be convinc'd that nothing, more agreeable to Nature, cou'd have obtain'd among Men, than Kingly Power and Monarchies, which were brought in by the Law of Nature, We are to obſerve that the *Jus naturale* or Law of Nature is uſed by the Lawyers in two Senſes. In the firſt and Largeſt acceptation, it is taken for Natural affection common to Men with Brutes, ſuch as the deſire of Coition, Procreation, oppoſing Force to Force, repelling Injuries, and ſuch like Affections, which Nature has implanted in all *Animals*

Part. 1. *Ch.* 1.

The law of Nature taken in a twofold Senſe.

mals. In their other Senſe it Signifies that Law, which is neither given nor receiv'd, but ſo connatural and ingrafted into Men, as they are Men, as that it cannot be extinguiſh'd or defaced, unleſs the Subject be marr'd or deſtroy'd. In both Senſes, Monarchy may be ſaid to be of the Law of Nature, and to owe it's Original to it, to which all living Creatures as by ſome natural reaſon or inſtinct are carried; Nature being their guide, and attracting them, as it were, by her gentle hand. For tho' Brutes are void of Reaſon, yet if by natural affection and appetite, they aim by the ſame means at the ſame end, which men under the conduct of Reaſon propoſe to themſelves, they may be ſaid to follow Nature's guidance as well as Men; tho properly ſpeaking, they have no Law, not that of Nature. Nevertheleſs it may be ſaid that Men and Beaſts in ſo far own Nature for their guide, if Brutes by the ſame natural inſtinct without reaſon, and Men by their Reaſon go on to one and the ſame end. For Nature is the firſt cauſe from which the Cauſes of almoſt all other things are produc'd, and does equally diffuſe it's virtue through them all, ſo that ſome of the Ancients thought Nature to be God, but in that they were miſtaken. For God is the Author of Nature, who at the beginning beſtow'd thoſe Natural powers on all living Creatures. Howſoever 'tis moſt certain that Brutes even by Natures inſtinct tend to a Monarchy. And to begin with the ſmalleſt ſort of them, the Bees, 'tis certainly true what *Virgil* affirms of them.

Monarchy has place even among Brutes.

At genus immortale manet, multoſque per annos
Stat fortuna domus, & avi numerantur avorum.
Præterea Regem, non ſic Ægyptus, & ingens
Lydia, nec populi Parthorum, aut Medus Hydaſpes
Obſervant, Rege incolumi, mens omnibus una eſt:
Amiſſo rupere fidem, conſtructaque mella
Diripuere ipſæ, & crates ſolvere favorum.

Immortal yet the ſacred Stock remains,
And ſtill the Royal Houſe their State maintains,
Not Ægypt, Lydia, Parthia, Media *ſhow*
More Loyal Love, or more obſervance know,
Their King ſecure, one Bee unites them all,
He gone, the Nation in confuſions fall;
Ruine the ſweets of all the by paſt year
And all the curious Combs from their Supporters tear.

The Harts follow one Leader, and when he turns upon the Hunters they ruſh forward ſo violently, tho' they ſhou'd be certainly kill'd, that nothing can ſtop them, the Hunters Spears, Staffs and Snares cannot frighten them nor keep them back, but the Hunters are forc'd to throw themſelves flat on the ground, and ſuffer the Stags to take their way over their own Bodies, of this we have often had experience. And I have ſeen a Herd of Cattel that have not ceas'd from fighting until one was own'd for Chief. The leſſer Birds, that they may be more ſafe from injuries, fly by Bands and in Companies. 'Tis reported of the Cranes, whilſt in the Spring they paſs from *Ægypt* to *Europe* over Mount *Taurus*, that they may eſcape the Eagles, who are very numerous in the tops of thoſe Mountain, they ever carry ſomething in their Bills, leaſt their Croking ſhould betray them, and they always follow one leader who flies before the reſt. 'Tis likewiſe certain that when they ſleep with

with their heads under their wings, One watches, and warns the reſt, if he ſees danger coming. The ſame practice is to be ſeen among the wild Geeſe, Ducks and Herons, One ſtill watches while the reſt ſleep, to awake the others upon any ſound or approach of men; and they all fly away, he being their Leader. The ſame thing has been obſerved by Fiſhermen among Fiſhes; For tho' there are far greater Swarms of Fiſhes in the Sea, than of wild Beaſts on the Earth, yet it's certain that they have their Commanders who are over the reſt. In *Shetland* and the *Orcades* when many Whales are ſtranded at once, between the Iſlands and Shelves upon the ebbing of the Sea, one of them who is their Leader, is always very remarkable both for the bigneſs and ſhape of his Body. The ſame obſervation holds in ſcholes of Herrings. And which is more ſtrange Salmon Fiſhes, have one much larger than the reſt, with one Eye only, who goes before the reſt, This one obſerv'd as a ſchole of them were entering into a River, as they do once every year, and told it the ſtanders by, who found what he ſaid was true, when the Fiſhes were Caught. This obſervation not only holds in wild Beaſts and Fiſhes, who naturally affect Society and a ſort of Communion, each herd having its Leader or King whom they acknowledge, it being verified not only in the ſeveral kinds of Animals, but alſo in the general. Thus the Eagle is the King of Birds, the Whale of Fiſhes, and the Lyon of Beaſts.

Plin. lib. 26. C. 23. Ariſt. L. 2. & 9. de Hiſt. animalium.

The true ſignification or import of the Natural Law.

But ſeeing the word *Jus* or Law cannot belong to meer *Animals*, another Signification of the Law of Nature is chiefly uſed by Lawyers, ſo as it's appropriate to men, only with reſpect to thoſe things which are by Nature implanted in them. Such as Religion, Piety, Matrimony, Education of Children and providing for them, which being proper to Men only are not deriv'd from poſitive Laws, nor ſpring from the uncertain Opinions of Men; but are Emanations from the Immutable and Brighteſt Splendor of the *Divine mind*, as *Cicero* ſays. And if in this ſenſe I affirm Monarchy, which is for the ſafety of humane Society to be from the Law of Nature, I think I ſhall not Err from the truth. Neither is it true what *Doleman* ſays, *that Nature has made no man Superior to another*. For certainly ſhe has produced ſome Stupid, ſome Feeble, and others Wiſe, who is ſo Blind as not to perceive ſome men to excell others, as much as theſe do Brutes? Some ſeem to be Born for Empire and Government, who have a Divine Spirit, others Fooliſh Stupid, Weak and without good Senſe or Ingenuity, and yet Nature has endow'd them with bodily Strength for drudgery, and executing the Commands of others. For Nature her ſelf directs dull and unskilful perſons to obey the more wiſe and prudent. And one who diſcerns ſomething great in another, which Nature has deenied to himſelf, naturally loves, eſteems, yea and obeys him, for his own advantage, as knowing that the wiſer man's foreſight and conduct in the management of buſineſs, will be for the ſafety of them both. He readily performs what depends more on bodily ſtrength than judgment, as bearing of Burdens, cutting of Wood, Ploughing or Sowing the Ground, and grudges not to obey the Commands of one whom he eſteems for his Wiſdom: So that from Nature there is ſuch a diſparity among men, that ſome ſeem born for Governing and others to Obey. *Ariſtotle* himſelf acknowledges this: So does *Julian* cited by *Cyril*. You ſee, ſays he, how willingly the *Syrians* ſerve other Nations; on the contrary how zealouſly the *Celts* affect Liberty. Yea in one and the ſame Country, they who inhabit the Northſide of a Mountain are reckon'd naturally

fiercer than ſuch as dwell on the South ſide of it, ſo that Men of vaſtly different tempers live in the ſame Climate, that the ſame kind of Government agrees not to both. Among the *Lacedæmonians* theft, which other Nations thought infamous and juſtly puniſh'd it, was allow'd. And Inceſt was reckon'd Piety by the *Parthians*, tho' other people moſt juſtly condemn'd it.

Let us therefore enquire if Monarchy may be ſaid, to have taken its riſe from this natural Inſtinct, and Reaſon implanted by God in men; and from the beginning, of Mankind, when men had no other Law or Guide but Nature, there were no Laws, no Social Bands or Leagues among them. After the flood as men began to multiply, they ſought out new habitations for themſelves and families in different places, and ſettled either in pleaſant or fruitful Fields, by Rivers, Fountains or Woods, according to their different inclinations. Then the Father only with his Wife and Children made a Family, His ſtrength was according to the Number of his Children. But it being too natural to men, to be partial to themſelves, the Earth began to be corrupted with Envy; So that he who had the moſt numerous Off-ſpring, and by conſequence the Strongeſt Family, arrogated moſt to himſelf, and ſeiz'd the poſſeſſions of the Weaker Families; alledging that his Family had a right to them, which by the bleſſing of God was more numerous. This occaſion'd ſtrife, then blows, few were killed, they not having the uſe of arms, ſo the weaker were taken and made Servants, which ſtrengthened the prevailing Party or Family. Power then conſiſted in the number of their Children and Family. But the weaker being exaſperated againſt the ſtronger Families, who diſpoſſeſs'd them of the Lands which they cultivated, and yet being unable to oppoſe them by their own ſtrength, they contriv'd to defend themſelves, by aſſociating with other Families, ſo three or four leſs powerful Families, joining in one Common League together, did eaſily ſuſtain the impreſſion of a more potent Family, nature alone dictating to them the Lawfulneſs of reſiſting Force with Force. When their example had reached alſo to others, it came to paſs that Confederacies were every where made among different Families, for preſerving their Poſſeſſions and Effects, againſt ſuch as were ſtronger then they were, and defending themſelves againſt Injuries; inſomuch that the more powerful Families themſelves alſo were forced to enter into Confederacy with others, well knowing that they were no wiſe able of themſelves to oppoſe many. So that the firſt Societies of men began in Families, after that in the Union of more Families together, Nature alone being their guide. Thence Cities took their riſe, which as *Cicero* ſays, were nothing elſe but Societies of men combined by Law, when at that time there was no other Law, but that of Nature.

The firſt Societies of men were in Families.

Families Little Monarchies.

Now Families at firſt were a kind of ſmall Monarchies, which increas'd and became ſo conſiderable, that *Abraham* alone Armed of his own Family, three hundred and eighteen Men, and with them defeated *Chederlaomer*, and the Kings that were with him; and reſcued his Brother *Lot*, and all the Priſoners and Spoils, which they had carried out of *Sodom*. In thoſe Families, πολυκοιρανία or Government by many, whether Ariſtocratical or Democratical was never ſeen or heard of, no footſtep of any ſuch thing in thoſe days on Record. Yea nothing can be more contrary to reaſon, than that the Governmnnt of any, but that of their one Lord, ſhou'd have obtain'd in their Families. Nor is it otherwiſe in Families at this day, the Maſter of the

the Family commands, all the reſt in their different Stations being oblig'd to Obey, the Wife lovingly, the Child with Reverence, and the Servants with Fear and Obſervance. No Seditions or Accuſations againſt the Maſter of the Family, no Laws given him by his Family, for governing it; nor was he ever forc'd from his Houſe and Poſſeſſions by his Family. If his Government ſeem'd too Severe to any under his Roof, the Perſon aggriev'd might depart; but if he was a Servant, he being his Maſters property, was either compelled to Obey, or ſold into another Family. They had then no poſitive Laws, to be the meaſure of their Obedience: 'twas only Nature, that *Divinæ Particula Auræ*, which excited them to it. When Families did incorporate into greater Societies, whoſe Reputation increas'd with moſt People in proportion to their Numbers and the Strength of the Community, as may be obſerv'd at this day, more People ſtill join'd themſelves to them, knowing that the more numerous they ſhou'd be, the more ſafe from danger, and the better ſtor'd with the Neceſſaries and Conveniences of Life, yet in ſuch a Concourſe of People conteſts could not poſſibly be avoided, the new Citizens cou'd not be without differences among themſelves. Wherefore to preſerve the Peace of the Community, one from among themſelves, or ſome one of greater Reputation was brought from a Neighbouring City, and ſet over them, to whom all their Controverſies were brought, and who decided them *ex æquo & bono*; *i. e.* by equity, there being then no poſitive Statute-Laws. If his deciſions ſeem'd juſt, others had their recourſe to him, untill by their common conſent and choice of that City or Society, he became the common and conſtant Arbitrator, and they Swore Fidelity to him. Neither ought this account to ſeem ſtrange to any body, for to this day in *Africa*, when a Controverſy happens, the contending Parties ſtop any Stranger who happens to come their way, and force him to determineit; and they ſtand to his deciſion. In ſhort, from thoſe Arbitrators came Kings, who were Judges over their reſpective Cities, decided their Civil Cauſes, and reſtrain'd *Libertiniſm*. No Ariſtocracies or Democracies were then heard of; Kings only are of Ancient date, appointed according to the Law of Nature, for the Magiſtracy over Civil Societies. 'Twas only the abuſe of Kingly Power degenerating into Tyranny and Licentiouſneſs, that gave birth to Ariſtocracies and Democracies, tho many Ages paſt under Monarchical government before theſe were heard of. So that theſe Ariſtocracies or Democracies were not inſtituted from any Natural cauſe, for the ſafety of humane Society, but meerly from that diſguſt, which was occaſion'd by Kings abuſing their Power, claiming to have it Abſolute in all things, which the People cou'd not bear. But in the Ancient Monarchies the natural and divine *Inſtitution*, that *divinæ particula auræ* appear'd fully when Kings us'd great Moderation in governing, and the People expreſt all Duty and Obedience to them. The behaviour of Kings towards their Subjects, was like that of Maſters of Families in their own Families. The caſe is naturally much the ſame in Families and Kingdoms, with this difference, that in thoſe, Reverential honour, in theſe Laws make men Dutiful and Obedient. None were ſent to School to learn to Honour their Father, that being natural to Children, who have their Beings from him; for the ſame reaſon we are naturally oblig'd to pay Honour and Obſervance to our Prince as the Common Father of the Country, to whom we owe our well-being in Civil Society. Was ever this Father choſen by his Children, or is there place for Election in Families? 'Tis Nature ſure that makes them Fathers of Children, or Maſters of Families. In the Kingdoms or greater Families in thoſe Ages no Seditio-

The firſt Occaſion of Appointing Kings.

Leo Afer.

Whence Ariſtocracy and Democracy ſprung.

Seditions, no Commotions, no Grievances of the People were ever heard of. They did not reckon it equitable to inquire into his Actions, who by their own conſent was Judge over them in all matters, and to whom they had ſworn Allegiance, much leſs to irritate or provoke him to Wrath, when it far'd well with them, and their concerns under his Government, by which they were fenc'd from Injuries, and Bleſt with Plenty. Thus they moſt Religiouſly obey'd their Sovereigns. But by whom was their Duty taught them? No Laws then were given, that of Nations had not then obtain'd; nor was it agreed on. It remains then, that by the only Inſtinct of Nature, by meer Inclination and choice of the mind, Men embrac'd Monarchy for their own ſafety, to oppoſe unjuſt Force, and to enjoy by mutual help the Common advantages and benefits, which ariſe from their being duly Incorporated into Bodies Politick. The inſtance which we have, of the Children of *Iſrael*, makes it Manifeſt that Monarchy proceeds from the Law of Nature. For when that People had *Samuel*, a moſt moderate and moſt juſt Governour, yet *they deſired a King to judge them like all the Nations*, 1 Sam. 8. 4. Tho' before they had any King, there is no footſtep of any Republican kind of Government among them. There was only one Judge in *Iſrael* at once; They had nothing to do with πολυκοιρανία a Government by many. Yea Commonwealths themſelves, where Democracy prevails, have always their recourſe to Monarchy, as often as greater Dangers threaten them than can be diverted by their ordinary means or remedies. So at *Rome* tho' they had Conſuls, yet they choſe a Dictator upon any great impending Danger, *Trepidi patres ad Summum auxilium decurrunt, Dictatorem dici placuit. The trembling Fathers*, ſays, *Livy, fly to their grand expedient, they are all for a Dictator. Q. Fabius* the Great was made Dictator in the ſecond *Carthaginian* War, to oppoſe *Hannibal*. And at *Athens*, tho' the people did chuſe their Magiſtrates yearly, yet in eminent dangers, they ſet one Prince over their Republic, and put all things in his Power, all other Magiſtracy and Power being Swallow'd up in his. What can we ſay of theſe Inſtances, but that men follow'd Nature's direction?

Quam Licet expellas furca tamen uſque recurret,

Which Baffles all endeavours that can be beſtow'd for Rooting it out. Her Laws bear Sway in the minds of men and are unalterable, much ſtronger than the Laws of the *Medes* and *Perſians*; for the bonds of Nature are ſo firm, that no Force can break them. Yea, ſhou'd we run over and view all the Nations in *America*, where meer Nature to this day ſhews it ſelf, without the advantages of liberal Education or Learning, we ſhou'd find all theſe Nations to have their Kings, whom they follow as their Commanders in Peace and War, and whoſe Orders they Obey; other forms of Government whether Ariſtocratical or Democratical are not as yet heard of among them. Thus among Men all things tend to Monarchy, and we have ſeen the ſame Inclination among wild Beaſts and Fiſhes, with this difference, that Men have Reaſon to guide and admoniſh them, where as unreaſonable Creatures have nothing to direct them, but only natural Inclination and Inſtinct; Reaſon, which Governs in Men, aims always at Monarchy as the moſt certain form of Government. From all which 'tis evident that we may reaſonably aſcribe this kind of Government to Nature it ſelf, which is delighted with Unity. 'Tis only one Sun in the Heavens, that by his bright Beams enlightens all the World, and one Reaſonable Soul in man, which rules all the Members of the Humane Body.

CHAP.

CHAP. IV.

By the Law of Nations and the Municipal Law, Monarchy hath always and every where been receiv'd, and ought to be maintain'd. Some Sentences of the Doctors concerning it's Excellency and Advantages.

FRom the Law of Nations Wars were introduced ſays *Hermogenes*, Kingdoms were erected, Dominions divided, Landmarks placed, Buildings raiſed, Commerce, Buying and Selling were inſtituted. He obſerv'd rightly, for when at firſt Men were not agreed among themſelves, as to the framing and preſerving of Civil Society, but had different aims, firſt Strifes began, which by the obſtinacy of ſome begat Anger, thence came cruel Enmities; and as *Horace* expreſſes it, *Funebre bellum*, cruel and deadly War. Again, War brought in Servitude, whilſt the vanquiſh'd fell to the ſhare, and under the power of the Conquerours: Then Dominions and Empires were ſettled, not only over them who ſubmitted willingly; But over others againſt their will, who were forc'd to obey what Laws the Victor gave them. Lawyers give this account of the Origin of Kingdoms or Monarchies, which is not inconſiſtent with that I have given; for the ſame Form of Government may be from the Law of God, and of Nature, and from the Law of Nations, and participate of all three. Matrimony is from the Divine Law, being inſtituted by God, the Author of Society, before man had ſinn'd; and yet *Ulpian* was in the Right, who ſays, That Marriage is of the Law of Nature, upon account of the Conjunction of Male and Female, the procreation and education of Children; which flow alſo from the Divine Law; for the Voice of God and Nature (I mean pure untainted Nature) is the ſame. It is ſaid alſo, to be from the Law of Nations; all Nations having receiv'd it. And Marriage is from the civil Law, upon account of civil Contracts, Portions and Dowries, which are regulated by the civil Law, and from the canon Law becauſe ſolemniz'd by an Eccleſiaſtick, who is authoriz'd to bleſs the married perſons. The ſame concurrence of Laws is to be taken notice of, with reſpect to the duties which Children owe their Parents; For they are not leſs due by the Law of God, than by the Law of Nature. Nor by the Law of Nations, than they are by the civil and Canon Law. No wonder then, if Monarchy be from three or four of thoſe Laws, which do all combine in favour of it: To wit the Law of God, the Law of Nature, the Law of Nations, and the Municipal Laws. Now as to the Municipal Law, it is made in every Nation as reaſon guides, and order'd to be obſerv'd by all. Now if it cannot be changed without a Convulſion of the whole State; Neither can Kingdoms which, as *Doleman* ſays, *are by this poſitive Law*, be eaſily alter'd into any other form of Government. For people once accuſtom'd to the Kingly Government are not eaſily brought to any other kind of Government. The people of *Cappadocia* and *Paphlagonia* (which Provinces were taken by the *Romans* from *Mithridates* and *Nicomedes*, whom they overcame) being ask'd by their new Maſters if they wou'd rather have another kind of Government than the Kingly, For they proffer'd to ſet them free from Kings, and give them full

L. ex hoc jure, de juſtitia & jure.

Monarchy is from the Law of Nations.

L. 1. §. Hinc deſcende. de juſtitia & jure.

liberty to ſet up either Ariſtocratical or Democratical Government, as they pleas'd, return'd this anſwer, That what was offer'd them as a favour, they look'd on as a grievous puniſhment, *Cum Sine Rege nulla gens vivere bene & beate poſſit. Becauſe no Nation can be happy without a King.* People therefore cannot alter the form of Government they have from their forefathers without endangering their *State*. For if one of a nice conſtitution, hazards his life, by changing his way of Living or Diet, much more will the State be in danger, if it's Government, which conſtitutes the Body Politick, and contains in it ſo many Orders and Societies, be alter'd. We ſhall ſee afterwards if it be Lawful to alter it.

Juſtinus lib. 38.

Concerning the excellency of Monarchy.

It remains now that I Subjoin ſome things, concerning the Advantages, and Excellency of Monarchy. This is a common place, and has been Treated by many with good Succeſs. Yet ſeeing all men are not Stor'd with Books, I ſhall briefly give you a *Specimen* of ſome Authorities from the Ancients, from which 'twill appear that they reckon'd Monarchy to be the moſt excellent form of Government, and even neceſſary. And firſt, *Herodotus* obliges us with a particular Account of that Noble Diſpute between *Otanes*, *Megabyſus*, and *Darius Hyſtaſpis*, with reſpect to that form of Government, they were to Eſtabliſh. For the *Magi*, who were Uſurpers, being kill'd, and the Kingly power Extinguiſh'd, they met together to conſider, what might be the beſt Government for *Perſia*, for the time to come. *Otanes* declar'd for Democracy. 'How ſhall we, 'ſays he, introduce Kingly Government again, who have lately Aboliſh'd 'it? or what have we been doing, if we put our ſelves juſt where we 'were? How can matters be well order'd in a Monarchy, in which 'Arbitrary power is exercis'd with Impunity? *Cambyſes* and the *Magi* may 'ſerve for Examples, to what heighth their Inſolence arriv'd. It cannot 'be, but that unlimitted power will even corrupt good men, and make 'the beſt man degenerate into the worſt. For Envy is too Natural to men, 'and Inſolence Springs from proſperity, and whoever comes to be infected 'with thoſe two Vices, is free from no Vice, but Runs Headlong into 'the Commiſſion of them, Favours the worſt of Men, Envies ſuch as 'are good, and eaſily gives Ear to falſe Accuſations. He is offended when 'Modeſtly prais'd, becauſe he is not extoll'd above Meaſure; and when 'highly commended he takes it amiſs alſo, as being flatter'd. He ſubverts 'the Laws of the Country, offers violence to Women, and deſtroys the 'Innocent. In Democracy there is an ισονομία or *Equability* of all 'Laws, and Magiſtrates are choſen by *Lot*, and may be forc'd to give 'Account of their adminiſtration; and they Govern by Joint Counſels.

Herodot. Thaleia, ſive lib. 3.

Otanes *his Speech for democracy.*

Megabyſus's *Speech.*

'But *Megabyſus* was of another opinion, for, ſays he, tho' Monarchy be 'liable to theſe faults; yet greater miſchiefs attend Democracy. Nothing 'is ſo inſolent and Fooliſh as the *Multitude*. We ſhall be far from 'mending the matter, if, to eſcape the ſeverities of Tyrants or Monar-'chies, we fall under the more grievous cruelties of the People. For a 'Tyrant, tho' he does amiſs, knows it; but the People know nothing. 'They are not taught, nor can they diſcern what is honeſt, even in their 'own Families, and yet like a Torrent run headlong into action. I do 'therefore preferr Ariſtocracy, and my opinion is that an Aſſembly of 'the beſt Men be choſen; among whom we ſhall be and 'tis moſt like-'ly that they will give the beſt Councels. But *Darius Hyſtaſpes* who ſpoke laſt, having rejected both their Opinions, gives Monarchy the Preference either to Ariſtocracy or Democracy. He ſays, 'No Government is

Darius's *Speech.*

'better,

'better, or fit to be compared to that, which is exercis'd by the Autho-
'rity of one good Man. One of that temper may govern the People
'without being either envied or hated; His Counſels will not be eaſily be-
'tray'd (ſo I underſtand this place which is corrupted.) In Ariſtocracy,
'the more Perſons there are, who endeavour to deſerve well of the State,
'the greater is their private hatred. Every man loves to excel in his
'arguing, and to have his opinion embraced, this begets rancour and ill
'Blood; whence Spring Factions, and thence Blood ſhed, and they ne-
'ver ceaſe from Butchering one another, untill the Government comes to
'devolve upon one. The Inference is Eaſy, that Monarchy has great-
'ly the Advantage of Ariſtocracy. As for Democracy, Malice is unavoid-
'able, which among bad men does not beget mutual Hatred, but it
'combines them in moſt firm Friendſhip againſt the Republick it ſelf, they
'diſſemble and conceal their deſign, untill one be ſet over them, and
'he whom the People have in admiration, reſtrains the diſorderly and
'malicious perſons, and becomes a true Monarch. So *Darius* affirms
'moſt truly, that all things tend to a Monarchy.

I have inſerted briefly, the Subſtance of the Speeches of thoſe three Great men from *Herodotus*, partly that I might not baulk the readers expectation, and becauſe in them, all the Arguments, by which our Adverſaries endeavour to load Monarchy, are compris'd, as are alſo the Advantages of it. For daily experience puts it beyond doubt, That in Ariſtocracy, Conteſts even among the beſt men, frequently ariſe in their Conſultations and Deliberations, and from thence Hatreds and Factions. For Example, take that diſagreement between *Q. Fabius Maximus* and *P. Decius*, between *Appius Claudius* and *P. Volumnius*, between *Fabius* the Nephew of the firſt and *Q. Minutius* in the adminiſtration of the affairs of the Commonwealth, when at the ſame time all of them had a due concern for it's welfare, and yet that cou'd not engage them to ſtifle their animoſities. But the miſunderſtanding between *Paulus Æmilius* and *Terentius Varro* did almoſt overthrow the Roman Commonwealth. This very inſtance is a proof that Factions ſpring from contrary Inſinuations. For the whole *Plebs* or Common people follow'd *Varro* their *Conſul*, againſt *Hannibal*, as thoſe of the *Patrician* Order did cleave to *Æmilius*. Men naturally covet a preference to others, whether in Conſultations, or in the Management of affairs, and they become the more powerful in proportion to the ſtrength and number of their Party, and never give over their Animoſities untill, either willingly or againſt their will, they fall under one chief Governour. One would be tempted to think that *Darius* had foreſeen and foretold the miſchiefs, which befell the Commonwealth of *Rome* in the Wars between *Marius* and *Sylla*, *Cæſar* and *Pompey*, and that *Rome* ſhou'd never enjoy quiet until it's return to the Government of one Soveraign. For all Government and Empire is impatient of a Rival; yea good Men do not take it well, to have other good Men ſhare in their Power; nor will a Father allow his Son to be a Partner in Power with himſelf. *Iſocrates* bears us witneſs how hurtful Ariſtocracy is when he affirms that Monarchy is more gentle and more juſt to the People. How much eaſier is it, to conform to the pleaſure and Command of one Man, than to be diſtracted, by endeavouring to pleaſe the many and various Opinions and Orders of many. For Naturally even the beſt of men do ſometimes diſagree, and from their different biaſs, eaſily ſlide into oppoſite determinations. Now if one commands what another forbids, one condemns

ad Nicoclem.

L. quia poterat ff. ad S. C. Trebellianum.

demns what another who has equal Power and Authority with him reckons Juſt, which of them is to be obey'd? We cannot in that caſe avoid the implacable hatred of one of them, by obeying th'other, *Homer* was in the right.

Οὐκ ἀγαθὸν πολυκοιρανίη, εἷς κοίρανος ἔστω
εἷς Βασιλεύς.

More Heads than one miſchief and danger bring,
One Head alone we'd have, one only King.

Yea our B. Lord himſelf ſays, *That no Man can ſerve two Maſters, but he will love the one and hate the other*, Mat. 6. 24. 'Tis much eaſier to conform to the manners of One Lord than of Many, to be under the power of One than of Many; and 'tis much harder to find Many good men than One. But if the People ſtumble on a Tyrant, 'tis full as bad to be haraſs'd and pillaged by many Tyrants as by one, and one may be much ſooner appeas'd than many. And without doubt, the great men or *Optimates* may tyrannize in an Ariſtocratical Government. Do but look back to the Government of *Perſia* by the Magicians, after the excellent *Cyrus* was gone, or the thirty Tyrants which the *Lacedæmonians* ſet over *Athens* which they ſubdued, and ſo changed their Popular Government into Ariſtocracy: Or bring to our remembrance the *Decemviri* at *Rome*. Theſe Inſtances may ſuffice to convince us, that the faults and miſchiefs that attend Democracy and Ariſtocracy do far exceed thoſe of Monarchy.

Lycurgus's *notable Saying.*

Lycurgus, after he had undertaken the Ordering the City of *Sparta*, and Settled Kingly Government there, being ask'd why he did not rather bring in Ariſtocracy or Democracy, made this Anſwer. Why do not you try one or other of thoſe Governments in your Family? He was in the right. For what is a Family but a little Monarchy, or a Monarchy but a large Family? I recommend this Inſtance to the conſideration of thoſe who have any byaſs towards popular Government, let them weigh it and tell me how they wou'd like it in their Families, that their Children and Servants ſhould ſhare with them in Governing them, notwithſtanding their Reputation for Wiſdom, tho' if they be wiſe their Counſel is not to be deſpis'd but follow'd. Great men and able Councellours ought to give their Advice, but are not to command but to uſe their good Endeavours that all due Obedience be pay'd to their Soveraign. And this is to be their Behaviour in time of Peace, when no Enemy offers to diſturb the Common-wealth. But if War be neceſſary, and recourſe muſt be had to Arms, either for recovering our own, or for neceſſary defence againſt Violence, reaſon, as well as the experience of all Ages, is ſufficient to teach us; with how much greater ſucceſs Wars are managed under one General than under many. The Example of *P. Æmilius* and *Terentius Varro* already mention'd ſhews us how fatal diſſention is in War, and *in bello non licet bis peccare*, men ſhou'd not blunder twice in War; it never far'd well with an Army that was commanded by more than one in chief, whatever *M. Livius Salinator* ſays, when a reconciliation between him and the other Conſul *C. Claudius Nero* was treated of, *viz. They will be more wary and exact in their conduct while they continue enemies to one another; leaſt one's miſmanagement become the occaſion of raiſing his Rival.* But *Demoſthenes* moſt elegantly ſhows how much the Command of one

Liv. L. 28. decad. 3.

one is to be preferr'd in carrying on a War, to any other. For when the *Athenians* were impatient at *Philip*'s great ſucceſs in his Wars againſt them, and how croſs all matters went under their own Generals, 'What 'wonder is it, ſays he, for in War the Government or Command of many 'is inexpedient. *Philip* does every thing according to his pleaſure, levies 'Souldiers, raiſes Money and gets Proviſions, and is ready for Action be-'fore we are aware; beſieges and deſtroys our Towns, while we ſpend 'our time in conſulting what to do. For after we are certified that '*Philip* is in the Field, and has laid Seige to ſome of our Towns, the firſt 'thing we can do is to Aſſemble the People, Adviſe with the Orators, 'what is to be done in this Exigence; after that a decree by common 'conſent is to be made, Generals are to be choſen, Souldiers liſted, Money 'for paying them rais'd, and before the Army can be in a condition 'to March, we ſuſtain great loſſes; Our Enemies come acquainted with 'our Conſultations which can never be ſafely entruſted to many, ſo while 'we are making the neceſſary preparations for War, we loſe our oppor-'tunity. *Philip* has already taken ſome of our own Cities, or ſubdued 'our Confederates before our Army appears. So the affairs of Peace or War can never be ſo Succeſsfully or ſo Eaſily diſpatch'd under Ariſtocracy or Democracy, as under one Soveraign Prince. And therefore *Ariſtotle* was in the Right, who after, he had compar'd the Three kinds of Governments together, affirms Monarchy to be the beſt of them, and Democracy the worſt. Becauſe fartheſt from the beſt. Demoſthen. in Philip.

I cou'd bring many Teſtimonies to this purpoſe from *Plato*, *Cicero* and other Philoſophers, chief men in Several *Common-wealths*, but I forbear, becauſe they may be found Scatter'd up and down in this work, and many Learn'd men have ſufficiently done it, and Set this affair in ſo clear a Light, that 'tis not to be doubted of. What I have already ſaid, may ſatisfie the Reader that I have Reaſon, and the Authority of the Ancients on my Side, leaſt he ſhou'd imagine that my deſign is to Flatter Princes. Our Adverſaries, in order to advance their new Schemes of Government, and ſtrike at the Throat of our cauſe, lay down this as their Fundamental Principle, That Kings were not ordain'd by God, and that Kingdoms or Kingly Government derives not from the Laws of God or Nature, but only from the poſitive inſtitution or Laws of Men. Whence they inferr that Monarchical Government may be aboliſh'd, and be changed into any other form of Government, at the pleaſure and diſcretion of the People, whether Ariſtocratical or Democratical; Kings put from their Thrones, and the Succeſſion to Kingdoms cut off. In fine that all rights, Divine and Humane, are in the power of the Multitude, for whoſe ſake, as it's End, the right ordering of the Common-wealth is deſign'd, under whatever *Species* of Government, and we ought not only to conſult the welfare of the People, which I ſhall not oppoſe, but we muſt alſo be enſlav'd to all their Madneſs and outrages. But it has been already obſerv'd, from long experience, that Monarchy is the certain and true Government for any *Community* or State, that it's very hard to Eſtabliſh Ariſtocracy or Democracy, and harder to continue them, and at this day, almoſt all popular Governments are Baniſh'd out of the World as Nuiſances, and Kings and Princes do Govern. In this age we have ſeen the Republic of *Florence*, turn'd from a Democracy to a Monarchy, which is confirm'd to the Family of *Medices*, which never was free from Factions, Seditions and Butchering one another, untill it got clear of popular Government.

To bring this diſcourſe Home to the caſe under our Conſideration, the moſt Flouriſhing and potent Monarchy, which the *Engliſh* have Handed down to them, from their Forefathers, and which they have carefully and with good Succeſs preſerv'd intire unto this day, is to be Succeeded to. Now this muſt be done either by *Election*, which overturns their Conſtitution, or the Succeſſor muſt inherit according to the receiv'd Laws, and order of Succeſſion. For in Monarchy there is no *Medium* between theſe two. It remains then, that I examine carefully whether a new *Election*, or the Ancient and receiv'd cuſtom of inheriting the Crown by Succeſſion in the right line, be moſt for the Honour and Intereſt of *England*, which I have ſtill in my view, and which are of the higheſt Importance in all deliberations.

CHAP. V.

Concerning Election and all the Advantages that attend it.

SUch People as have an Itch after Novelties or have little skill in Affairs, are apt to preferr Election to Succeſſion, and I make no doubt but many may attempt to chuſe a New King, ſhou'd *England* be ſo unhappy, as to be embroil'd. 'Tis the Weakneſs or Vice of Corrupt Nature to be delighted with Novelties, preferring imaginary proſpects to our preſent happineſs, to deſpiſe what we enjoy, and to wiſh for it again invain, when loſt, τὸ παρὸν ἀεὶ βαρύ, Says *Thucydides*, *The preſent is always grievous*. Yea I know 'tis controverted among ſome Learned men, eſpecially ſome Lawyers, whether the Election of a New King is not preferable to the Order of Succeſſion, by which the next in Blood is advanced to the Government of the Kingdom. I remember to have heard this Queſtion much toſs'd and diſputed at *Paris*, when I was a Student there, among the Candidates for their degree in the Univerſity, in their Declamations, Orations or Conferences among themſelves, according to Cuſtom; after they had gone through, and ended their Courſes of Philoſophy, they were generally much taken with the Arguments which favoured *Election*, as I my ſelf was alſo at that time, before I had maturely conſider'd that affair or attain'd to a more ripe Judgment. No Body therefore needs be ſurpriſed, to find ſome things which have been ſaid and written by others, repeated by me in this Chapter; I ſhall endeavour however, that beſides the Arguments which I either have heard in the Schools from others, or which are to be met with in the Treatiſes of other Authors publiſhed on this Subject, to entertain the Reader alſo with ſome things of my own, which ſhall be briefly ſaid, that ſo it may be eaſie for any Reader of an ordinary capacity, to ſee clearly to the bottom of this affair; and as it were, with his own hand ſearch the moſt hidden receſſes of it, and make a right Judgment of the advantages and miſchiefs of this Election, or Elective Governments.

A Kingdom is the moſt Charming thing in this World.

This whole Queſtion, which ſo much concerns the peace and welfare of the people, is of very great conſequence, and therefore deſerves to be handled with the utmoſt exactneſs. For ſince a Kingdom is the moſt

moſt conſiderable and charming thing among men, and the greateſt object of their ambition, and that the lives and ſafety of ſuch vaſt numbers of people, *whoſe ſafety* as the *Laws* of the XII. *Tables* affirm, *are the Supream Law*, depend upon that one thing, I ſhall treat in the firſt place of Elective Monarchies, which with their ſpecious but counterfeit appearances are apt to catch the multitude. The Advocates for Election contend that it was inſtituted by God Almighty who is not only infinitely Wiſe, but Wiſdom it ſelf, all other things compar'd with him are nothing but meer Folly; and that God himſelf who ſearches the hearts of the Children of men, and to whoſe all-ſeeing Eye all things as well future as paſt are always preſent, ſeems to have given *Election* the preference to Succeſſion. For in *Deuteronomy* the Lord ſpeaking to the people by *Moſes*, commands them thus, *Thou ſhalt in any wiſe ſet him King over thee, whom the Lord thy God ſhall chuſe, one from among thy Brethren, thou mayeſt not ſet a Stranger over thee who is not thy Brother. But he ſhall not multiply Horſes to himſelf, nor cauſe the people to return to* Egypt, *to the end that he ſhou'd multiply Horſes, neither ſhall he multiply Wives to himſelf, neither ſhall he greatly multiply to himſelf Silver nor Gold, and when he ſitteth on the Throne of his Kingdom, he ſhall always have the Law of God before his Eyes, and he ſhall read therein all the days of his life, that he may learn to fear the Lord his God, and to keep all the words of the Law of God to do them. That his heart be not lifted up above his Brethren, and that he turn not aſide to the right hand or to the left.* Deut. 17. v. 14, 15, *&c.* Hence they infer that God allow'd His People Election, yea and commanded it, and he himſelf promiſes to be the Author of it, and acquaints them with the happy fruits of it, to wit peace with their Neighbours, whom their King is not to provoke by multiplying to himſelf Horſes or Souldiers, and above all that he ſhou'd fear the Lord and keep his Laws.

The Advocates for Election make God the Author of it.

What can Mortals wiſh more for in a Kingdom, ſay theſe Advocates for Election, than to have ſuch a modeſt King over them, free from covetouſneſs, who will not exhauſt them with taxes, and finally live in peace with his Neighbours, ſo as not to run them into needleſs and expenſive Wars. In the next place they bring examples from Scripture for Electing Kings, for the people took *Joaſh* The Son of *Ahaziah* and made him King. Neither *Saul* nor *David* did Succeed, but were Elected. From Scripture they go to Reaſon which naturally gives the preference to Election, becauſe the King is only for the People. And as the World is at preſent he muſt appeaſe tumults, and engage people to live peaceably, more by his good behaviour than by force or fear. This requires Greatneſs of mind in a King, an agreeable Modeſty, a thorough knowledge of Juſtice, which is to be impartially diſtributed, and a finiſh'd Wiſdom to obſerve a true meaſure in beſtowing rewards and inflicting puniſhments. Such a King is to be carefully ſought for, for we rarely ſee ſuch qualities to attend birth, ſeldom are the beſt men of one Stock or Family, nor have they good Education. We oftner meet with *Caligula's*, *Nero's*, *Commodus's* and *Heliogabalus's* than with juſt and modeſt Princes, who will prefer the happineſs of their people to themſelves and their own intereſt. Much leſs is a *Codrus* who purchas'd the Peoples ſafety at the expence of his own Life, to be found among thoſe Hereditary Princes, or finally one who knows to adminiſter healing medicines, when the body Politick is ſick or diſorder'd. How elegantly does the Prince of Poets expreſs himſelf on this occaſion?

The difference between an Elected and an Hereditary King.

Ac

Ac veluti in magno Populo cum ſæpe coorta eſt
Seditio, ſævitque animis ignobile vulgus,
Jamque faces & ſaxa volant, furor arma miniſtrat.
Tum pietate gravem & meritis ſi forte virum quem
Conſpexere, ſilent, arrectiſque auribus aſtant,
Ille regit. dictis animum, & pectora mulcet.

As when in ſome great Town Sedition reigns,
And Rage among the Mob th' Aſcendant gains,
When Mad their Stones and Brands at random fly,
If then ſome reverend pious man they ſpy,
The Mob all Silent and attentive ſtands,
He ſooths their paſſions and their Souls Commands.

The preſence and Authority of a wiſe man can do much.

Natural reaſon teaches us, that this Prince is not to be hoped for from the Royal Stock or Purple, but ſuch an one from amongſt the People, ought to be pick'd out, and rais'd to the Royal dignity by the Suffrages of the People, One who excels them all for Piety, Fidelity, Juſtice and Wiſdom, when this happens, as it needs muſt, where the King is choſen by good men, that Kingdom will certainly be moſt happy in which Philoſophers reign, or Kings are ſage Philoſophers. The *Roman* Commonwealth flouriſh'd and enlarged their Dominions far and near, while the people choſe their Rulers, firſt Kings, after them Conſuls, then Tribunes with Conſular Power and Authority, Dictators and Emperours of Armies. But the Commonwealth being overturn'd after the death of *Auguſtus*, who made the Empire Hereditary in his own Family, the Majeſty and greatneſs of *Rome* was impair'd untill it was transferr'd to other Families. But when *Nerva* choſe *Trajan* for his Succeſſor in the Empire, and *Trajan*, *Adrian*, who choſe *Antoninus Pius* and he again *Antoninus Philoſophus*, the State, which had been in a declining condition from the Reign of *Auguſtus*, Flouriſh'd again under thoſe great and moſt accompliſh'd Princes, it was reſtor'd to it's ancient ſplendour, *Rome* had Peace at home, and Succeſs and Victory abroad. Again, no ſooner did *Commodus* Succeed in the Empire as Heir to his Father *Antoninus* the Philoſopher, but all their affairs began to decline as the Poet ſays,

In pejus ruere, & retro ſublapſa referri
Ceperant.

Then *Rome* was fill'd with blood and butcheries, nothing done in the Provinces in that Prince's Reign, becoming the Majeſty of the *Roman* Empire. By right of blood ſuch Princes often fall to our ſhare. Neither are good Princes always ſo fortunate as to have good Children, *nec fortes creantur fortibus*, *The valiant do not always beget the brave.* A choice then is nicely to be made, and when that is done, one of exemplary Vertue and Wiſdom, will be made King. The greateſt bleſſing that God can beſtow on a People, and if the Kingdom be bleſt with many perſons of heroick vertues, the people are at liberty to chuſe the moſt excellent of them all. *Election* proceeds from counſel, deliberation and reaſon, many can better judge what ought to be done and what is to be avoided, than when a Prince is ſet over the people of God for no other

A King is to be choſen after enquiry is made.

other merit, but his birth, without choice or any farther enquiry. For in chusing a Prince regard will ever be had to the wisest and justest person, who, by his Example and Authority, may encourage piety and vertue, be pleas'd with the Conversation of good men, reward vertue and discourage vice, reject flatterers, keep his promises, punish Sycophants and the pillagers of the Common-wealth, avenge the wrongs that are done to others, and forgive trespasses committed against himself; and who will pay the greatest deference to vertue and goodness.

The Ministers of an Elected King are oft times good men.

Moreover, a King so enrich'd and adorn'd with all endowments of mind, cannot but make a right choice of his Ministers of State, Magistrates and Judges, whom he entrusts with the administration of Justice both in Civil and Criminal matters, that, is men of Probity, Integrity and Learning, well acquainted with the Civil and Municipal Laws, not stain'd with base corruption; and who are not to be tempted with bribes to pervert Justice. Now if merit is chiefly regarded in chusing a King, it must necessarily be minded in chusing inferiour Magistrates. And consequently Honours, Magistracy and Dignities, which ever ought to be the rewards of Vertue, will always be bestow'd on the most deserving Persons. A just Prince will always chuse those who resemble him most in those excellent qualities. For, seeing the design of Magistracy is the Maintenance of Justice and publick Society, those persons are to be preferr'd who are most likely to compass that end. The ancient *Latines* had their recourse to divination, that the most celebrated person for military Government, shou'd begin the choice, and pick the person that came neares to himself, this a third, the third a fourth, and so on, they chose persons fittest for the Wars, until they got a compleat Army.

Now if this method Succeeds (and how can it fail, where in chusing, the people give their voices on account of the merit of the Candidate) then is the Kingdom most fortunate, Good men will rule; men of Learning will be adorn'd with honours and dignities, and ill men finding no *Asylum* or place of refuge, will chuse to leave the Country, or be forc'd to abandon their wicked way of living. Good men finding great encouragement for their Vertue, and that they only are entrusted with places of honour and advantage, will be excited to tread steadily in those paths that lead to honour, when they are convinc'd, that the more they excel others in Vertue they have the truer title to Preferment. So all good men, and they only have reason to expect rewards, nothing but misery and deplorable misfortunes can be the Portion of the Wicked. The good government of any Kingdom consists chiefly in dispensing duly rewards and punishments. But under an hereditary Prince, such Governours are set over the people, as he pleases, or brib'd Court Favorites recommend, no access to Preferment but by *Sejanus*.

Governing is an art.

There is also a certain art of Reigning, and therefore he who is most Skilful in it, deserves to be chosen King, being most capable of attaining the ends of Government, the Peace and Safety of the People: The Impartial distribution of Justice is the means, which supposes a thorough knowledge of Laws and Equity, with a clear and sound Judgment. On the other hand nothing provokes People more than perverting of Justice, and having respect of Persons more than of the Merits of their Cause. So the wisest man, and he who is best Skill'd in the Laws, and in publick Affairs, ought to have the Kingdom. How can he who is not a most Just man, nor knows well what is Just and Right, distribute Justice to

every man? And this accompliſhment is the effect of Induſtry, not the Benefit of Nature or Blood. A ſick man chuſes the Ableſt Phyſician, not one deſcended of a great Phyſician, 'tho he was Son of *Æſculapius*. It happens often in Kingdoms that there Ariſe great Commotions, and Seditions break forth, theſe are the Diſtempers of the Civil body, which being Sick, Diſtracted or Furious, wants a wiſe State Phyſician to correct the peccant Humours, and reſtore the body Politick to its due *Craſis*. In like manner, the art of Navigation is neceſſary for Sea-faring people, and the more skill'd the Pilot is, they are the Safer; what is a Common-wealth, but a Ship in the Sea cutting the oppoſing Waves? If it be left to its ſelf, without a Maſter or Pilot, 'twill unavoidably Stumble on Rocks and Shelves, or Sink with its too great burden. The Steerage is eaſie in good Weather, and an ordinary Mariner will do at the Helm, but in a violent Storm when the Danger is great, the beſt Pilot is employ'd, and he is entruſted with the Government of the Ship. In like manner the *Romans* in that Dreadful Inundation of the *Cymbrians* into *Italy* choſe a Commander not from among their Nobility, but *C. Marius* from among the Loweſt of the People. This man being moſt Famous for Military affairs was choſen alone by the people of *Rome*, the Nobility not oppoſing, when their *All* was at Stake, and to him they entruſted the Common-wealth, their Wives, Children and whatever was dear to them. In ordinary Trades, thoſe who have ſerved their time at them, and become Maſters of theſe Arts, are beſt employ'd. And if we conſider this affair, ſay they, in point of Reaſon, what can be more Impious than for Gods people to Subject themſelves to one, who perhaps has renounc'd the true Religion, as *Julian* the Apoſtate did, or who has turn'd *Saracen*, as is reported of *Peter* King of *Caſtile*, or is ready to embrace *Mahometiſm* as *Matthew Paris* writes of *John* King of *England*. What if a *Furioſo* Succeeds as was *Charles* VI. King of *France*! By Birth ſuch men happen to ſucceed, who are under moral or natural Incapacities to Govern. Will any wiſeman put the Sword into his hand who knows not how to uſe it? What if this man be deaf, dumb, or ſo weak, that he is altogether unfit to bear rule, or to manage any matters, ſuch as by the Fewdal Law, are debarred from Succeeding even to the ſmalleſt Fee or Copy-hold, becauſe, as *Obertus* ſays, they are uncapable to do the Service of Vaſſals to their Superiours. What if a Boy or Infant ſucceeds, as we have ſeen often fall out? The Lord pronounces it *a Curſe upon that Land whoſe King is a Child, or whoſe Princes eat in the Morning*. Will any Man of true Piety chuſe to be under the Curſe of Almighty God? The *Sacred Canons*, ſay they, bear witneſs how undecent it is for one who cannot Govern himſelf to undertake to Govern others. What if a *Sardanapalus*, a *Heliogabalus* or a *Childerick*, mounts the Throne by this Hereditary right? How ſhou'd he be allow'd to regulate the manners of a Society, who is inſipid? Who knows no difference of Moral good and evil, neither what his own nor other men's Morals are.

The beſt Artiſt ought always to be preferr'd.

In vita Johannis.

But this is not all, the Enemies of Hereditary Monarchies proceed farther, and bring another prejudice againſt them, which is the Inconveniency of a Female Heireſs ſucceeeding failing Males. How ſhall ſhe, ſay they, perform thoſe Offices which are proper to men? Is not that againſt the order of Nature, and the Judgment of right Reaſon? If Women are not ſuffer'd to bear the Offices of Inferiour Magiſtrates, how ſhou'd they be Inveſted with the Soveraign power, and have the Nomination and Authorizing of all ſubordinate Magiſtrates? Reaſon, which is infus'd by God into the minds of Men ſhows us

Of a Woman's being Heir of a Kingdom.

us plainly, that it belongs not to a Woman to raiſe an Army, to exerciſe Souldiers, or lead them on againſt an Enemy, or give the ſignal to Battel, ſhou'd ſhe do it, 'twou'd be abhorred as a *Bad Omen*. And yet if a Woman be the only Heireſs of a Kingdom, ſhe muſt preſide in Military and Civil affairs, in all Councels and Deliberations. Whereas by the Law of Almighty God it was commanded from the beginning, that a Woman ſhou'd be obedient, and in Subjection to the Government of another, not rule or command over Men. Who ſees not this to be a violation of what God has Inſtituted? All theſe Inconveniencies and evils, ſay they, ſpring from this *jus Succeſſorium*, this Hereditary right of Succeſſion, which are not to be prevented or remedied otherwiſe than by the people's having a free choice of their King ; 'Tis by this means only that they can have as Wiſe and Virtuous a King as cou'd be wiſh'd for. No man in his right wits, can conſent to have any but the moſt accompliſh'd Prince, who is beyond all exception well qualified for Government, made King over him. But if the worſt ſhou'd happen, that he ſhou'd degenerate, and diſappoint their expectation; they will be more eaſie under that misfortune which was occaſion'd by their own deed, having none on whom to lay the blame but themſelves.

There are many moſt powerful Kingdoms in Europe *which are Elective.*

Moreover, not to mention ancient Kings, there are at this day many powerful Empires in *Europe*, many noble Nations, who acknowledge none for their Kings, but ſuch as are choſen by themſelves, they yield not their Necks to the Yoke of any King who is not ſet over them by their own conſent and their lawful ſuffrages. Such, at this day is the Empire of *Germany*, which none have enjoy'd for many Ages, but by the Voices and Choice of the *Electors*. Anciently the Conſent of Fifty Four of the Great men, beſides the Biſhops and Cities was required as neceſſary. But *Charles* the IV. reſtrain'd the Number of Electors to Seven. And not only from the days of *Charles* the IV, but even from *Charles* the Great, yea as far back as *Auguſtus Cæſar*'s time we find that a new Emperour was ſtill choſen by the Suffrages of the Army. The Souldiers thought, that no man ought to be Emperour, and to have the Command of the Army, which they reckon'd the ſafeguard of the Common-wealth, but he who deſerv'd the commendation and applauſes of the Army, and cou'd take care of the Safety of the Publick.

And in the Church of *Rome*, the Pope, whom they reckon Head or Prince of the Church, and who ought to be exemplary for Piety, Learning and all other Virtues, is rais'd to that dignity by *Election*, and no leſs care ſhould be taken of the People's Safety, Quiet and Religion in the Civil than in the Eccleſiaſtical State.

Elective Kingdoms.

Beſides the Empire there are alſo ſeveral other Kingdoms which own no King, but ſuch as is choſen by their own ſuffrages, ſuch as the Kingdoms of *Danemark*, *Sweden*, *Bohemia*, *Sarmatia* or *Poland*, *Pannonia* or *Hungary*, as moſt people will have it; we know that the Kings of thoſe Kingdoms, which are in themſelves moſt powerful, moſt flouriſhing and proſperous, are Elected by Suffrages, and yet Government is no where maintain'd at this day, with greater tranquillity and happineſs, than in thoſe Kingdoms, notwithſtanding the people in them ſay, that they are not tied to any Succeſſion, but that they uſe to receive and acknowledge him for their King and Soveraign, who is moſt likely to promote the welfare of the Kingdom and of the People. And ſo by the acceſſion of foreign leſſer Principalities (which come to them by allowing Foreigners

More honourable to be choſen than born a King.

Foreigners to ſtand Candidates for being choſen King) they vaſtly enlarge their Territories. Some alſo are of opinion that it's more honourable to be Choſen than Born a King, the firſt is owing to Merit, the ſecond to Birth; that never falls to the ſhare of any, but of the moſt accompliſh'd men, this not only to the baſeſt but even to the moſt wicked Princes. There we have ſuch a King as we wiſh for, here we are forc'd to be Subject to him whom Fortune puts upon us; The one is able and willing to ſuccour and take care of the State when in danger, the other is oft times too unconcern'd for the publick, if he be well himſelf; there, all matters are tranſacted with the greateſt Safety, here at the caprice and by the abſolute power of one Man, the People are ſlighted, ſpoil'd and trampled upon.

Theſe and many ſuch ſort of Arguments are made uſe of, by the Advocates for *Election*, and among them by the *Counterfeit Dialogiſt Doleman*, who, tho' ſometimes by the force of reaſon, he ſeems to inſinuate That Succeſſion is attended with fewer Inconveniences than Election, if ſuch an Heir of the Crown ſucceeds as is qualified for it, and willing to Succour his Country, when in danger; but having the Impudence to ſay that few Hereditary Kings have thoſe good qualities, he plainly perfers Election to Succeſſion, and endeavours to prove his aſſertion by the examples of many Kingdoms, and chiefly of *England*; he puts us in mind of many of its Kings being depriv'd both of their Lives and Crown, as not being Skill'd in Government, and others choſen in their room, who by their Virtue and Induſtry have ſupported the Publick when in danger of Ruine, moſt happily enlarged the Kingdom, and have Reign'd far and near. And which is more (tho' nothing more Impudent or of more dangerous conſequence can be ſaid by any Author) he adds, that it's a never-failing Obſervation, that he who Succeeds to him whom he has firſt Dethroned, has always been a moſt excellent, and very great Prince, and that God Almighty has always favour'd and Bleſt ſuch bold Strokes, and contumelies of Subjects againſt their Kings; that the Kingdom has been better'd and more enlarg'd, people improv'd in their Morals, and continued always moſt dutiful during the life of their Elected King.

Such Harangues have indeed the fucus or meretricious appearance of truth, and 'tis not to be wondred that when they are embelliſh'd with the flowers of moving eloquence, if ſuch as are not well skilled, or have no experience in affairs of this nature, nor their Judgment rightly Settled, are much taken with them. Yea ſometimes they not only deceive the leſs Skilful, but alſo caſt a miſt before the minds of the moſt Judicious and quick Sighted. 'Tis to be wondred at, how men otherwiſe moſt learn'd, do indulge themſelves on this Subject, as that nothing is ſo abſurd, which by Rhetorick may not ſometimes ſeem probable. But when once the varniſh is taken off, ſo that we may ſee things in their true colours, and weigh them, by a ſedate and mature Judgment, the cheat preſently appears. For theſe men propoſe nothing to themſelves, but ſome *Utopia*, and in it a *Stoical* King preſented to our imagination, of whom we may form ſome *Idea* in our minds, but ſhall never ſee him with our eyes. They entertain themſelves with meer *Platonical Ideas*. For their Vizard is no ſooner pull'd of, but the innumerable Inconveniences and Miſchiefs which attend and Spring from Elections in Kingdoms become manifeſt to all men. Now that our Neighbours may the better ponder, what ought to be done, and what is to be avoided, I purpoſe to Subjoin the miſchiefs of

of *Election*, making a tripartite division of them, that is, first the evils which preceed the Election of a new King, secondly at the time of the Election, and lastly after it. I shall allow each of them a Chapter, and after that shall answer briefly all the arguments which are brought here in this Chapter to favour Elections.

CHAP. VI.

Of the Inconveniencies which usually preceed the Election of a New King.

THe first Evil then of *Election* is, that *Election* arraigns the People and Loads them with manifest ingratitude; when as the People slighting the Families and Heirs of Princes, who have deserv'd well of them, and at the expence of their own Blood had purchas'd the Estates of each of them to their Ancestors, transfer the Kingdom from the Posterity of those Kings to Strangers, and obscure or unknown Families. These are doubtless harsh Judges who are far from doing by their Soveraign, as they themselves and their Families wou'd be done by; For they cannot think of Suffering their own Posterity to be Dis-inherited, even of that which they owe to the bounty of their Kings, however ill deserving they are, and yet at the same time, are ready to suffer the Off-Spring of their Soveraign Lord to be expelled from their Paternal Inheritance. The memory of Excellent Princes, deserves ever to be had in Honour, and it cannot be preserv'd with due Reverence, without maintaining the *Succession*. For as Kingdoms were the first form of Government, settled before all other kinds were known, so such Kings were chosen by the Consent of the People, who were most Beneficent and liberal to others, and who by their Bodily strength, Valour and Singular Wisdom, were able to defend the People from the assaults of wild Beasts, or the Violence and Injustices of Lawless men. Afterwards Commanders of Armies (by whose happy Conduct Provinces were brought into Subjection, and parcell'd out among the Souldiers, for their good Services) were made Kings. And 'twas Stipulated between Kings and People, that they shou'd be mutual *Guarantees* to one another, and to their Heirs and Descendants for ever, and the Off spring of the brave and beneficent, from a just regard to the memories and noble Exploits of their Fathers, had the Kingdom by Inheritance. Hence the people pay'd the same fidelity and Allegiance to the Son as they had done to the Father. *William* the *Conquerour* having subdued *England*, divided the Kingdom among his *Normans*, and others who serv'd him in that War, reserving to himself the Soveraignty. Sure then, their Posterity who enjoy'd those Estates by his Bounty, wou'd have stain'd themselves with the basest Ingratitude, had they suffer'd him or his Posterity to be thrust out, and the Kingdom transferr'd to another Family. Neither wou'd they have been Chargeable with the Crime of Ingratitude alone, (tho' nothing be worse or more infamous among men) their Ingratitude being also accompanied with the greatest Impiety. 'Tis the Prerogative of Almighty God to dispose of Kingdoms, and he takes the Kingdom from a Family for the Sins of it, and bestows it on another. Some-

The first evil of Election 'tis a mark of the peoples ingratitude.

Ingratitude joined with injustice.

times Families and their Off-ſpring, are quite extinct, as we have ſeen lately in *France*. What the Cauſes of ſuch Cataſtrophies in Families are, are to be left intirely to God's Judgment. 'Tis evident then if people preſume to transfer Kingdoms at their pleaſure, and lift up themſelves above their Soveraign Lord, and dethrone his true and Lawful Children and Heirs, they become not only Guilty of Ingratitude towards the Family of their former Kings, and the Branches of it, but of the greateſt wickedneſs and impiety againſt God Almighty, by invading that Power, which He has reſerv'd to Himſelf of diſpoſing of Kingdoms.

The 2d evil, Election alters the State of a Kingdom.

The Second miſchief which attends *Election*, and is greater in compariſon, is a change of the form of the Kingdom as to its Conſtitution. All alterations, eſpecially in the Body Politick are to be avoided. As a man's health is in danger by a ſudden change of his Diet; ſo changes of the *State* bring Innovations as to Laws, and the manners of the People, which of neceſſity diſorders the *Civil body*. Tho' ſometimes theſe alterations ſeem to Flatter men at firſt, and promiſe great matters, yet when they expect to poſſeſs them, they find nothing real, all being Imaginary, or Speculation at beſt; that happineſs they had in Proſpect flies away with the Wind, and oft-times carries along with it, or deſtroys the publick tranquillity. We often ſee diſagreement as to manners breaks off Friendſhip, whereas agreableneſs of manners improves and perfects it, according to the common ſaying, *Novus Rex nova Lex.* new Lords, new Laws, and *quo leges vadunt Reges Volunt.* And *Xenophon* πᾶσαι μεταβολαὶ πολιτειῶν θανατφόραι *All Changes of the State are mortal* to it. *Thucydides* ſays the Kingdoms or Common-wealths which make feweſt Alterations in their Laws, tho' Defective and Inconvenient, are moſt firm, as ſhall be ſhew'd afterwards; Changes are always attended with Calamities, and the *Bait* of Liberty hath ever bitter Ingredients. *Salluſt* was in the right, when he ſaid, that all changes in the *Weal-Public*, portend Deſtruction, Baniſhments and all ſorts of Hoſtilities. 'Tis an old ſaying τὸ κακὸν ἐυκείμενον, ἧ κινητέον An evil that is eaſiy born, is not to be moved, leaſt greater miſchiefs enſue upon an Alteration of the State. 'Tis the nature of all Changes, to hurry people along with them againſt their will, and that Kingdom which once begins to be driven head-long by mutations, cannot be ſtop'd in that Carreer by any, until it falls into ſome Signal miſchief.

The third, A new choſen King is obnoxious to many changes.

A Third Inconveniency of altering the Conſtitution of a Kingdom, ariſes from the difficulty of effecting it. For when a Kingdom is well Eſtabliſh'd and confirmed to a Family, and is deeply Rooted in it, 'tis hard to make a change, or if the Innovators ſucceed in their Enterprize, that new Government will be but ſhort Liv'd, unleſs Powerfully guarded by a Standing Army, and moſt ſtrong Garriſons. When ever People get free from that Force which Enſlaves them, we ſhall preſently hear of Plots and deſigns to over-turn the new Model, opportunities will be greedily Embrac'd, the People will moſt eaſily return to their former Cuſtoms, and Watch all occaſions of Seditions and Rebellions.

The fourth is the danger of Perjury.

Fourthly, people who are bound, and had obliged themſelves to bear Faith and true Allegiance to their former King and his Lawful Heirs, by *the Oath of God*, they cannot without horrid Perjury conſent to the Election of another Prince, or of one from another Family. No account can be given, no Colourable pretext for violating the Oath which they had given, and which they were oblig'd in Gratitude to give, or for binding themſelves afterwards by Perjury to any other, upon any Contract or

Pro-

Proſpect of Advantage. The *Caſtilians* in *Spain* who were ſenſible of the Scandal as well as the Guilt of Perjury, deſerve to be commended and imitated in this. For when they Plotted any Rebellion againſt their Lord or his Children, that they might not be reckon'd Perjur'd, they in the firſt place not only by a Publick deed Diſclaim'd their Allegiance to their Soveraign, but alſo reſtor'd to him, all their own Lands which they held of him, before they enterpriz'd any new attempt, and ſo they thought they cou'd not be Branded with the Infamy either of Perfidiouſneſs or Rebellion. Marian. l 13. Cap. 11 deRebus Hiſpaniæ.

But ſuppoſing ſuch as are for a new Election in an hereditary Monarchy cou'd clear themſelves of the abovemention'd Crimes of Ingratitude, Injuſtice, Impiety and Perjury (things impoſſible for them to do) and that they cou'd not be juſtly, charged with ſuch grievous offences both againſt God and Man; I ſhall now conſider all the ſeveral times, with regard to the Election of a new King, and the inconveniencies which each of them are attended with, that we may know, what is to be hoped for in each of them, and what evils may be feared from them.

And firſt it ſhall be made appear from Reaſon, and next by the Examples of former times, from which we ought to take warning; how many and grievous inconveniences uſually preceed the Election of a new King, when the Right of the Lawful and next Succeſſor in Blood is rejected, and that in the *Interregnum* between the death of the laſt King and the chuſing of a new one. After the laſt King's death before a Succeſſor can be choſen by the Suffrages of the People, there muſt of Neceſſity be an *Interregnum*; nay I may rather ſay, an interruption of all adminiſtration of Juſtice, or rather an *Anarchy*, which never fails to be the bane and plague of every well conſtituted State or Kingdom. For ſeeing the King is the fountain of all Juriſdiction, from whom all inferiour Magiſtrates derive their Authority as Rivulets from their Springs, all their Juriſdiction and Authority being meerly vicarious and delegated from their King; I ſay all theſe leſſer Juriſdictions with their Magiſtrates muſt of neceſſity be loſt and extinguiſh'd by the death of their King! 'Tis certain *Mortuo mandatore extinguitur mandatum*, [a] *A Commiſſion ceaſes and is extinguiſh'd by the Death of him that granted it, becauſe he who is entruſted with a Commiſſion, only performs the Office of him who gave it.* [b] *Judicium*, ſays *Paulus*, *vetante eo qui juſſerat, ſolvitur.* [c] *A Sentence or Decree is made void, by a prohibition of him who gave it.* And *Ulpian* ſays expreſly, *That the Death of the Soveraign is equal to a Prohibition.* [d] Now ſeeing all the Power of an Elected King ends with his Life, it cannot Survive him in any other Perſon, becauſe no man can impart or continue to another more power than he has to himſelf; For meer Uſufructuaries or Adminiſtrators, as all Elective Kings are, can grant no Commiſſions nor give Leaſes, or prorogate them to any beyond the term of their own life. This is manifeſt from the Commiſſions or Orders in all *Britain* chiefly, by which Cauſes are diſpatched. For the King's Name is prefix'd to theſe Commiſſions, which Command, Ordain and Empower his Deputies to put his Orders in execution. For the King's Name is ever put in the beginning or preface of the Commiſſion. But if there be no King, in whoſe Name ſhall ſuch Writs be iſſued out? What Princes Name ſhall be prefix'd to them, ſo as at a day whether certain, or uncertain the Plaintiff may have Juſtice adminiſtred? In whoſe Name is the Court to be held? Or whom ſhall

The Inconveniences of an Interregnum

The Juriſdiction of ſubordinate Magiſtrates ceaſes by the death of the King.

[a] Et quia de Juriſdictione omnium Judicum.

[b] Leg. more majorum & l. & ſolet ibid.

[c] Judicium f. de Judic.

[d] L. qui ad certum. F. Locati & conducti.

ſhall the *Apparitor*, Cryer or Sergeant of the Courts, or in paſſing and ratifying Decrees or Sentences, addreſs to or Speak before? By whoſe Authority does the Judge act, or whoſe Delegate is he? Before whom ſhall the Sute at laſt be ended? Who can cite Witneſſes, or fine them for not appearing? Who, and by whoſe Authority, can he Order any Sentence to be executed tho' it were paſſed even while the King was alive? For he who once was, is not, yea there is none who can exerciſe Juriſdiction, either by himſelf or by Delegates, to do Juſtice between man and man, or to do them right, who ſuffer wrong before a Convention of the *States* is appointed for this new Election, and a new King like another *Mercury*, is let down from Heaven to them. All this while no regard is had to Debt, or Credit given, the publick Faith is ruin'd: And what muſt enſue upon this, when the Creditor can obtain no Juſtice in due courſe of Law, nor oblige his Debtor to pay him? He will have his recourſe to Force, and make himſelf at once Judge, Party, and Bailiff, and ſo will ſet upon his Debtor and take him by the throat, if he delays to make payment. Such practices doubtleſs will give occaſion of tumults and ſeditions, which neceſſarily follow Innovations, and theſe conteſts are managed by all ſorts of Crimes. Highway men and Thieves will ravage with impunity, without check or controul: Becauſe there are none who have Authoriry to reſtrain Wickedneſs, by condign Puniſhments, ſuch as Blood-ſhedding, Rapes, Adulteries, Thefts or other Crimes.

What kind of Juſtice may be expected in the Kingdom.

Shou'd any be ſummoned or arraigned to anſwer for their Faults or Debts, they will think that they may ſafely contemn both the Judge and his Sentence. Or if any have ſo much modeſty as not to decline a fair Tryal, but appears in Court, and being preſum'd guilty, he is no ſooner urged by the Plaintiff or his Counſel, to anſwer to the charge brought againſt him after the ſute is commenced; but in the very beginning of the Trial he will be ready to fall foul on them. Who are you, he may ſay, to the Judge that put *Interrogatories* to me, how came you by this power of taking Cognizance of this matter, ſo as to oblige me to give account of my Life and Actions to you? Whence have you Power and Authority of Trying and Judging Me and my Concerns? Who made thee an Arbitrator or Judge over me? Or who gave thee this Juriſdiction, that I ſhou'd be anywiſe Obnoxious to thy Power and Authority? I own that thou waſt Cloathed with Authority and a Commiſſion from the former King as to theſe matters, and I know alſo, that he who made thee a Judge is now Dead, and that his Power and Authority ended with his Life, and by neceſſary Conſequence thine is ſunk with it. Formerly thou waſt my Ruler or Judge, but now only my Companion, we have not as yet got a new King, nor is the Aſſembly of the people or Convention of States, appointed for Electing one. How then and by what Right doſt thou Arrogate this Power to thy ſelf, of taking Cognizance of my Crimes, Debts or manner of Life? Now if any ſly Crafty Knave makes theſe, or ſuch like Objections, pray what can the Judge reply to them. 'Twill be to no purpoſe, for this Judge to ſay that he may continue his Magiſtracy until a new King be choſen. For the deceas'd King, having had no Power in the Adminiſtration of Juſtice, beyond the term of his Life, cou'd not transfer more Right or authority to others than he himſelf had, and Conſequently from the time of his Deceaſe all Juriſdiction neceſſarily ceaſes. So that there can be no Magiſtrate, no Juriſdiction nor Judicial proceedings during the whole time of the *Interregnum*; and conſequently all the Bonds of *Civil Society*, which

conſiſt

conſiſt in the equal Diſtribution of Juſtice, are broken and diſſolved, no care taken of the Publick, nor any remedy left for preventing its Ruine. 'Tis a Miſchievous thing for a People to be any time without Government and the Adminiſtration of Juſtice. The Prophet *Hoſea* reckons this among the Calamities, which he foretold were to be inflicted on the Children of *Iſrael*, *They ſhall abide many days without a King, and without a Prince.* And from the Canon Law, we find that the long Vacation of a Benefice is dangerous. The difference between Ruling and Obeying wears off by Diſuetude, for if there be no Ruler, there will be of neceſſity no Obedience or none to Obey. Chap. 3. v. 4.

Their three Remedies for the curing the Inconveniencies of an Interregnum.

But ſome may ſay, that the Inconveniences which attend an *Interregnum* may be cur'd by theſe three Remedies. Firſt, the Reverence and Honour people have for their former Magiſtrate, will reſtrain many from diſorders, and a King will ſoon be choſen, and there is no great harm, in a ſhort delay for a little time. Their Second Remedy is, that the *Interregnum* will be ſoon over, by the appointing a New King, this New King, will puniſh with the greateſt Examplary Severity, the abuſes committed in the mean time, to terrify others, and effectually to prevent ſuch Diſorders and Crimes upon any like occaſion for the future. For when they perceive much more Grievous Puniſhments to be inflicted for Crimes, committed between the Death of the Old King, and the Elevation of a New one, than for thoſe under the Reign of a King, they will be frighted from ſuch wicked Practices in thoſe Intervals. Thirdly, in caſe the Licentiouſneſs of bad Men, breaks out ſo Impetuouſly, that neither the Reverence of their former King, nor the Fear of him who is to Succeed, is ſufficient to reſtrain them, Let an *Interrex* or Regent be choſen, to whom Power, as Governour and Guardian of the Kingdom, to judge by himſelf, or his Deputies or Subſtitutes in all caſes, between man and man, and to reſtrain by condign Puniſhments, all Murders and Robberies, is to be given.

The uſeleſneſs of their firſt Remedy ſhewn.

Firſt then, they are groſly miſtaken, who think that in a little time a New King will be choſen, and that no great hurt can befall the Kingdom in that Interval. *Quis enim deorum aut hominum*, as the Poet ſays, what man of the greateſt Sagacity, or Penetration, can promiſe with any certainty, that a matter of that conſequence will be quickly tranſacted? Or who is endowed with fore-ſight enough to tell us certainly, the year, day, or month, when this Election will be Finiſh'd? The *Roman* Empire, being Elective, was without any Emperour for the ſpace of Eighteen Years, while the Princes Electors were conſulting and contendingamong themſelves, about choſing a New One. *William* Earl of *Holland*, whom the Electors themſelves, by their ſuffrages had choſen, being kill'd, and *Alphonſus* the King of *Caſtile* was choſen. All that time indeed, the Peace and Quiet of the People was interrupted, Murdering Villains Ravaged at their pleaſure; nothing ſo Sacred, but what was Abominably Violated by the worſt of Men, with all manner of Impunity. How often have Three *Cæſars* been choſen at once? Nay at one time Thirty *Cæſars* with *Zenobia*, a ſometimes Four, when the Legates of divers Provinces took care to have themſelves Proclaimed Emperours, by the reſpective Armies, which they Commanded? Which of them ſhou'd the People have pay'd their Obedience to in the mean time? And in chuſing of a New Pope or Prince in Sacred matters, where the Election ought of all others to be moſt Sacred and Pure; and without all delay, becauſe in the Vacancy of that See, Sacred

a *This* Zenobia *was Queen of the* Palmyrenians, *and by her valour conquer'd the* Eaſt.

Orders and Inveſtitures cannot be given, how often is that Election deferr'd? Yea in the Earlier Ages of Chriſtianity, when the Sanctity of the Ancient Fathers had not then altogether decay'd, about the Year of our Lord 356. We Read of Six Hundred of the Citizens of *Rome*, killed upon account of the Schiſm between *Damaſus* and *Urſicinus*, and Factions among the people of *Rome* commenc'd from that conteſt, each of them ſtriving to have a Pope of their own Party, and the Factions were ſo Fierce and Enraged, that in the one Oratory or Church, of *S. Siſinnius*, one hundred and thirty ſeven dead Bodies were found. So the See of *Rome* continued vacant for two whole years. There are alſo reckon'd more than thirty three *Interregnums* between the death of Popes, and the Elevation of their Succeſſors, in which the Election has been delay'd either one year or ſometimes two, Eighteen or Six months, or ſome conſiderable time, which gave occaſion for perpetrating innumerable Villainies and Crimes. The like Inconveniences have alſo attended the Elections of Inferiour Biſhops; for the Citizens of each City committed ſuch Extravagancies, to get one of their Kindred promoted to the Epiſcopal Dignity, that the Council of *Laodicea* was neceſſitated to make a Canon againſt ſuch Elections. [a] *Ne Populi Suffragijs Pontificum Electio permitteretur. That the People be not allow'd to chuſe their Biſhops.* And tho' the Emperour *Ludovicus* permitted the Citizens of *Rome* to chuſe the Pope, [b] yet in thoſe Elections the People brake forth into ſuch Heats, as that oft-times, the Election of a new Pope was taken back from them, and determined by the Emperour, tho' afterwards Popes were not wanting, Right or Wrong, to retrieve the power of Election to themſelves; and ſo theſe Tumultuary Elections were ever attended with wicked Practices and miſchief. Neither were they perform'd in a more peaceable manner, after the Emperour's power over them was quite ruined, and the Election devolv'd on the Cardinals, who at firſt were but Twelve. For even in that ſmall Number of Electors, there were ſharp Conteſts. After the death of *Clement* IV. the Papacy continued Vacant three whole years, by the Factions and Power of the diſagreeing Parties. After *Felix* Duke of *Savoy* ten years. How often have three Popes been choſen at one time, Reproaching one another with not being Fairly and duly Elected. How many times, two? Now that the College of Cardinals is Increas'd to the Number of Two and Thirty, what Factions ſhou'd we have ſeen, what Diſagreements, and *Interregnums*, if their Fears from growing *Lutheraniſm*, as they call it, had not oblig'd them to more Circumſpection, and to avoid Factions among themſelves, that they might with greater Intenſeneſs and unanimity Extinguiſh with Fire and Sword, what they call Hereſy, as a common Evil to them all; and leaſt their Jarring among themſelves, ſhou'd ſtrengthen their common Adverſaries? In like manner in the Kingdom of *Poland*, after the death of *Sigiſmundus Auguſtus* without leaving Children, and *Henry* III. King of *France's* leaving *Poland*, a new King was to be choſen, the Throne was vacant for ſome Years, whilſt *Sigiſmund* III. Son to *John* III. King of *Sweden*, of which he was alſo King himſelf, *Theodorus* great Duke of *Muſcovy*, and *Maximilian* Brother to the Emperour *Rodolph*, maintain'd a Bloody War among themſelves, and each of them ſtrove for the Kingdom. So that a ſhort *Interregnum* or Intermiſſion of Juſtice is not always to be look'd for, many things may happen to hinder the calling, or the meeting of Eſtates or People of a Kingdom for chuſing a King, or the declaring the Election, and yet in the mean while, a Door is ſet wide open to all diſorders and Wickedneſſes.

Ammianus Marcellinus hiſtor. ſuæ. lib. 27.

[a] Canon. non eſt permittend. diſtinct. 63. 9. 13.

[b] Ego Ludov. ibid.

I am

I am now to consider their Second Remedy, which is, that the Elected King will Inflict Severe, and Exemplary Punishments for Crimes committed in the *Interregnum*, whereby to prevent the like for the future: but there is little hope of that, for few take warning from the Examples of others. And commonly a New King, tho' invested with power sufficient, studies more to gain the favour and good will of his People, than severely to punish past Crimes. 'Tis more becoming the Wisdom and Honour as well as it is the Interest of a Kingdom, to prevent the commission of Crimes, than to punish them after they are committed. The punishment even of the greatest Criminal, is not near so pleasant to the People, as restitution of what has been unjustly and violently taken from them: For tho' the Law is satisfied by these punishments, yet private men reap no benefit nor advantage from them as to the losses they sustain'd. What pleasure can they, who have suffered innumerable damages have, or what recompence is it to them, to see their spoilers dragg'd to Execution? Humane nature shrinks at such direful Spectacles, it can yield no Comfort to the miserable, nor is it any compensation for the loss of their substance, the murder of their Friends and dear Relations, the burning of their Houses, and violating the Chastity of their Wives and Children, to see the wretched Authors and Actors of those crimes hung in Chains. So that during the whole *Interregnum* the condition of all the best men is most miserable. They and all their dear concerns lie at the discretion of the most profligate wretches, and 'twill be in vain for them to hope for having restitution made them by the new King. *Of their second remedy.*

But let us suppose the new King, both able and willing to do whatever is just and right, and to have the greatest readiness to resent the crimes and villainies committed in the *Interregnum*, yet he is no sooner chosen and Saluted King by the people but congratulatory Speeches, wishing him all manner of prosperity, are immediately heard. And he in return to ingratiate himself, and to gratifie the people whom he is to govern, publishes an Amnesty of all crimes past, an indulgence or general pardon and indemnity, and shou'd he refuse to do it, the people who promoted him, wou'd reckon him ungrateful, and run into Intrigues and Plots against him, whence wou'd flow Seditions and tumults for preventing of which the new chosen King of Course and according to Custom grants a total Indemnity. He may think, that he is not to be blam'd for this; he is unconcern'd with what mischiefs were done before his Reign began, they cannot be imputed to him. He thinks he shall not be blam'd either by God or Man, if he but take care to punish with due severity the Crimes committed during his own Reign. The truth of this will be clearly evidenced, by two or three Instances, which I am to Subjoin.

Tho' the Empire of the *Turks* be kept in one Family, yet it does not always descend to the first born or the next in blood, for the Reigning Emperour nominates and appoints one of his Sons, who is reckon'd fittest for Government, to be his Successor, passing by the rest of his Brethren. But he is not saluted Emperour, until that after his Father's death, he be confirmed by the Pretorian Bands commonly called Janizaries, and that they swear fealty to him; Then and not before he is Saluted their grand Seignior or Sultan. In this Interval these Janizaries commit horrid abuses, Spoil and pillage the Houses of all the Inhabitants at *Constantinople*, especially *The first Example is from the Empire of the Turks.*

cially of the Chriſtians there, Seize their effects; Murders, Adulteries, Rapes, and all Villainies Rage every where with impunity, and without check or controul. Nor wou'd they pay Allegiance to their new Emperour till ſuch time, as he ſwear to them Solemnly to indemnifie them for all paſt crimes.

The execrable practices of the Mammalucks *chuſing their new King.*

The *Mammalucks* in *Egypt*, whilſt they had Sultans of their own, and during the time of their Kingdom, perperrated more grievous things than were done even by thoſe Janizaries; for their Kingdom depending intirely on Election and the Suffrages of the *Mammalucks*, they us'd not only to take care to have a full indemnity for all Violence and Injuries done by them, which exceeded the Licentiouſneſs of the Janizaries, and made their new Sultan confirm their impunity by a Solemn Oath; But they alſo extorted a donative from him; Nay, and that they might have frequent opportunities renewed of gratifying their Revenge, Luſt and Covetouſneſs, both with Impunity and Rewards, they often conſpir'd againſt there Kings, and Murthered them.

Strange cuſtom of the Romans *at the chuſing a new Pope.*

But ſome may be ready to ſay, that ſuch things are only to be met with among *Mahometans* and *Barbarians*, but nothing ſo Horrid and Barbarous was ever practis'd in Chriſtian Kingdoms and Countries. 'Twere to be wiſh'd that Chriſtendom afforded no ſuch examples, but woful Experience convinces us of the contrary. Nay if we will conſider the Head and Preſident of Chrianity it ſelf (as the Papiſts call their Pope) and his Election, and ponder what happens at it, we ſhall find that no leſs Evils and Miſchiefs attend it. And the Cardinals, tho' men ſometimes moſt Nobly deſcended, and of great Learning, are nevertheleſs conſtrain'd to uſe military Force, for quelling all tumults at the Election; yet all their care is not ſufficient to prevent the breaking open the Doors of all the Priſons, and ſetting at Liberty not only Priſoners for Debt, but all ſorts of Criminals alſo; and ſometimes Killing the Jailors. They want no Indemnity for theſe things. For the long continuance of this Inveterate Cuſtom (which the people of *Rome* will never ſuffer themſelves to be depriv'd of, or to be antiquated) has eſtabliſh'd this impunity, as it were, by a Law; or rather by the tacit conſent of the people. The truth of this is known to all ſuch as have been at *Rome* at the time of a new Pope's Election, theſe Licentious ravages always break forth, and conſtantly attend theſe Elections, which happen very often; it being cuſtomary to chuſe an old infirm Decrepit man to fill that Chair, that there may be room the ſooner for another Candidate after his death. How many Popes have been killed? How many compelled to die? How many of them poiſoned? Theſe are no uncommon ways there, for making room for the promotion of a Succeſſor. And to them ſuch Evils will neceſſarily happen in all times. It has been obſerv'd already at *Rome* by good men there, and deſerves to be remembred, that many delay to commit the blackeſt crimes until the Pope be given over by his Phyſicians, and his recovery or life deſpair'd of; Then they make themſelves ready to perpetrate the horrideſt, the moſt unnatural and cruel Villainies, being well aſſured of impunity at the Election of a new Pope. The Fathers throat is in danger from his own Son, the Husband murders his Wife, or ſhe her Husband, neither Riches nor Strong Gates guarded, are a ſufficient Security to Husbands againſt Violence: Neither does the Innocency of a former well led life avail good Men. All things are turn'd *Topſy Turvy*, and violence bears down every thing before it, nothing Sacred is ſafe. Right, Equity and Laws are baniſh'd

Banish'd and have no more place; And when they have done all those Horrid Crimes, safely go to Prison, as knowing well, that the Prison doors are forthwith to be broken to Pieces, and that a Plenary Indulgence, for all Enormities committed, will ensue.

Their third Remedy consider'd.

I come now to consider their Third remedy for the Inconveniences which are before an Election, and that is an *Interrex* or Viceroy, and yet I see no hope that this expedient will be sufficient for curing those Evils. For this *Interrex* or Regent must be chosen, (Succession having no place in this Office,) and his Election perhaps may have as much of difficulty and delay attending it, as that of the King's himself; of which, by and by. Now this *Interrex*, or Administrator of the Kingdom must of necessity Govern and do whatever his Place obliges him to, in the Name and by the Authority of another, for he has not receiv'd Power to do any thing in his own Name. If then he be the Procurator of the Kingdom, and administers Justice to the People, he must have a Superiour whose Affairs he takes care of; for he cannot be a Viceroy, or Vice-Governour but as he is in the place of another. *Locum tenens, alterius Locum tenere dicitur.* So an *Interrex* cannot be made, much less a *Procurator*, *Curator* or a *Locum tenens.* For such an one must necessarily hold the Place of one that's Better or Superiour, whether Lord, or Pupil, and by Virtue of that Character, Administer his Affairs. Now I wou'd know who this other is? Or what is his Designation whose Substitute he is? Will this man, whoever he is, call himself the *Procurator* of the Kingdom; and as in *Hæreditate jacente*, when the true owner of an Inheritance is not known, a *Curator* in that *Interim* is appointed to take care of the Estate? I answer that neither one or t'other can hold in Law; For no man can derive any Jurisdiction but what is given him from a Prince, nor can he Administer publick Affairs in his name, who in truth is not. For it is ridiculous for him to say, that he has, and Administrates the Procuration of the Kingdom, when a Kingdom can have no *Procurator* or *Curator*, as appears from the History of the late Tumults in *France*; for when the Duke of *Mans* did Arrogate to himself the Title of Viceroy, all people Laught at it. Because a Kingdom cannot have a Viceroy, tho' a King may; and one can only say, that he is the Deputee, or Acts in the place of a Living person. As for that Case *de jacente hæreditate*, it differs from the other. For our Lawful Superiours, who have power over the goods of Subjects by Law, may entrust others with the Administration of them in such Emergencies. But who is the Superior Magistrate of the Kingdom? Who can nominate or impower a *Viceroy*, when, as I said before, the Jurisdiction, and Functions of all Magistrates are extinct by the Death of the King? I own that the *Romans* us'd to appoint their *Interreges*, but it was only to take care of Magistrates, they neither administred Publick nor Private affairs, neither cou'd the first *Interrex* Assemble the People, but the Second or Third, and the *Interregnum* lasted but Five days. And it cannot be therefore, that an *Interrex* or Procurator of the Kingdom, any Viceroy, Curator or Governour, can be appointed before the Election of a new King.

But in hereditary Kingdoms all Affairs stand on so firm and stable a Foundation, as that upon the King's death, there is no occasion to have recourse to the Chusing a Governour, Procurator or Viceroy, but the next in blood Succeeds, in the place of the Deceas'd; or if the King that Succeeds be an Infant, or not of Age for Government, then is a Governour

appointed by the Will of the laſt King, or if there be no Will, the neareſt Kinſman (to whom alſo the Succeſſion is due) is entruſted with the Government, ſo that there is no Interruption of Juſtice, no occaſion for Tumults and Seditions, and all Adminiſtrations will be perform'd in the Name of the true and Rightful King.

of the Interrex. But Suppoſing an *Interrex* or Viceroy might be appointed and alſo that the people may elect him, wherein or how far differs this Viceroy from a true King? Yea this Viceroy becomes truly King, with this only difference between him and the King, that the Government of the King is of a Longer and the Viceroy's of a Shorter duration. This Governour, if he be a cunning man may do what he pleaſes, and will govern and order all matters as he ſhall think fit; And firſt he will put off the Aſſembling the People or great Diet of the Kingdom, for the Election of a new King, and then delay the Election from day to day, untill he Secures his own buſineſs, under pretence that all concerned in that affair (which every one is very nearly) are not as yet preſent; And that they who are abſent, will be apt to reſent the not waiting for their Voices, this may tempt them to raiſe tumults, and give colour and pretences for Rebellions and Seditions; and ſmall ſparks, if not timely and prudently Smother'd may break out into flames. 'Tis better then to wait a while longer than to Exaſperate any of the great men by making too much haſt. But if the *Interrex* have no pretences for farther delays, leaſt his deſigns ſhou'd by ſuch delays be diſcovered, he at length holds this general Diet, and takes care to cite all, who have right to Vote, to be preſent and to take their places, and ſuffers all the affair to be debated, but underhand he employs ſome of his own Creatures, to raiſe and increaſe difficulties on the whole matter to embarraſs them. There cannot be a more fruitful ſubject for Controverſy or Diſputes this is, whilſt one contends for the rigour of Law or the moſt ſtrict Law, another for Equity, a third for what is moſt Honeſt, and a fourth for what is moſt Profitable and Expedient. While theſe things are in agitation, and no good expedient is found, the meeting muſt be Adjourn'd, and when the firſt rate Men, for Wiſdom and Experience, cannot come to a temper or agree among themſelves, one ſuborn'd by the Governour lays hold on this opportunity, Why, ſays he, ſhall we procraſtinate this great Affair to a farther debate, or, ſeeing we cannot agree among our ſelves, why do we not chuſe the Viceroy to be our King? We have experience of his modeſt and mild Government in this *Interregnum*. Is it not better to entruſt our Eſtates, Wives, Children and our Lives with him, than with one, whoſe Inclinations, Temper and Manners, are not well known to us? Or if this Overture does not take, why may not we, ſays he, continue him in the Government a year or two longer, untill we conſider and weigh exactly, who deſerves beſt to be King? Theſe and ſuch like Arts are commonly practis'd upon ſuch occaſions, in all Elective Kingdoms. But they are nothing in compariſon with what was done in *England* by *Richard* III. protector of *England*, who, that he might obtain the Kingdom for himſelf, and his Heirs, perpetrated the moſt conſummate Villainies. He firſt put off the Coronation of *Edward* V. the true Heir of the Kingdom, (to whom he had been left by Will, or choſen Guardian,) after that, He thruſt the Young King and his Brother into Priſon, delay'd the Meeting of the States, and by the worſt, and I think before unheard of arts, pav'd his way, even by the Suffrages of the people, to his Uſurpation of the Kingdom.

Richard III. *Inſtanc'd in.*

Guſtavus

Gustavus Erickson, who first got the Kingdom of *Sweden* settled on his Family, during the *Interregnum*, while the States were met to chuse a new King; he in the mean time, made his way by cunning Methods, to have the Kingdom for himself, for being reckon'd an exceeding great Lover of the Common-wealth, and highly esteem'd for the former great Services, done by him in delivering it from the *Danish* Yoke, he was made General of the Army by the great Men, and States of the Realm. Which Army had been rais'd, and kept up for the Safe-guard of the Nation, against Invasions from abroad, but more especially from Intestine Commotions. He took care to have the Army devoted to himself by his obliging Behaviour, Bounty and large Promises, tho' he conceal'd his main design from them. This very Army, I say, demanded that he shou'd be made King. And his Posterity possess that Kingdom, tho' Elective, right or wrong, as their Inheritance to this day.

Gustavus's *cunning in possessing himself of the Kingdom of* Sweden.

'Tis reported of *Bamba* King of *Spain*, when he had sent *Paulus*, his Genetal with an Army against *Hilderick* Count of *Nismes*, this *Paulus* beginning, to be weary of his own Soveraign, to whom he had sworn Fealty, and by whom he was trusted, stirred up all the Souldiers that follow'd him against their King, affirming, that it was better to chuse one from among themselves, than to yield Obedience to any King by Succession; most of the Souldiers under his Command being corrupted, assented to this new Proposal, and one *Ranocundus* starts up and says, Why do we not chuse our General *Paulus* himself for our King, and obey him, rejecting our former King. 'Tis notorious that the Generals of Armies, or such as have been entrusted with the Administration of the Government, have often used the acclamations of the Souldiers, and Armies of which they had the Command, for making themselves Tyrants, and have found this commonly a sure way for Invading and Usurping of Kingdoms. Nay, which is more, Church History it self affords such examples. For *Roderick Burgia*, whilst the Papacy was vacant, after the death of *Innocent* VIII. and the Cardinals were convened for Electing a new Pope, being Governour of *Rome*, (which was not only a place of great Dignity, but also of Authority and Command over all the Souldiers, and the Garison which Guarded the City) enticed and engaged both the Souldiers and Garison, to his Interest be good Offices and Gifts; and being thus strengthen'd, he secretly threaten'd all the Cardinals, as they were entring the Conclave for chusing a new Pope, that unless they Chose the Person he should name, they should never come out Alive. The Cardinals being Terrified with Fear; as being beset with Souldiers, and in great danger of their Lives, and no hope of Escaping being left them, yielded the Power of naming the Pope to him. Whereupon, he presently taking the Pall to himself, Commanded them to declare him Pope. And they not daring to Resist, gave this *Borgia* the Chair, and created him Pope, tho' he was an Illeterate man, unless the Arts of Magick and Witchcraft were to be taken for good Learning. Hence came that pleasant allusion in the Inscription on his Monument, *Alexander* VI. *Papa vir non indoctus, & præteritorum probe gnarus.* 'Twas read *Alexander* VI. Papa, insinuating by what sort of Arts he was Elevated to the Papal Dignity. These examples are so very common in every Country, that it may seem needless to bring more of them. I shall only offer one or two from Ancient History.

The Example of Bamba *King of* Spain. Roder. Tolet. li. 3. cap. 2 & 3. de rebus Hispan.

Alexander VI. *Pope instanced. in*

Dion a most Excellent Man otherways, who delivered *Syracuse* from their Tyrant *Dionysius*, had the command of the Army assigned him, which

Dion's *fact at* Syracuse.

which they had rais'd, for preventing any farther Innovations and keeping all things in quiet. His former merits entitul'd him to ſuch a truſt; but having got the Command of the Army, while he pretended to eſtabliſh Ariſtocracy or Democracy among them, he kept them ſo long in hand and made ſuch delays, that at laſt the *Syracuſans* having ſhrewd preſumptions of his deſigns to become a Tyrant, killed him. *Appius Claudius* otherways a moſt prudent man, was choſen with other Nine, who were called the *Decemviri*, to govern the Common-wealth of *Rome*, but their government was not determin'd to any period of time, but in general, untill they had digeſted the Laws brought from *Greece* into Tables, and had finiſh'd the *jus Romanum*. *Appius* having added the ſecond to the firſt year of his Government, and enticed by the charms of Authority, at firſt delay'd to lay it down, alledging that the new Laws were not as yet perfected, at laſt being plainly commanded to diveſt himſelf of the power of which he was poſſeſs'd, he refuſed poſitively to do it without uſing any excuſes. At that time there were no Magiſtrates at *Rome* to compel him, no *Conſul*, no *Dictator*, no *Pretor*, was then. They receiv'd the Government on theſe terms, and the people had ratified them by an Oath, that no *Conſul*, *Dictator* or *Pretor* ſhou'd be created at *Rome*, ſo long as their Government Laſted; and that they only, as well in the City as Army, ſhou'd have all the power, determine Cauſes, and have the entire adminiſtration of publick affairs, with them only were the *Lictors* the Rods and Axes, the Enſigns of Authority. And unleſs by the Luſt or Ambition of *Appius*, Law and Right had been Subverted, and he himſelf by the fury of the people, forced to Abdicate the Government, *Rome* had at that time loſt all it's Liberty, and the Government of the *Decemviri* had been confirm'd and continued for the future.

Appius Claudius Decemvir *refus'd to lay down that Authority which he had only for a time.*

Julius Cæſar being made *Dictator* for ſettling the diſorders of the Common-wealth, laying aſide his *Dictatorſhip* made himſelf *Conſul*, that he might go into *Greece* againſt *Pompey* with a Legal Authority. The *Triumviri*, *Octavius*, *Antonius* and *Lepidus* were choſen out of the *Senate*, for the exigencies of the Common-wealth, and had the Command of it's Armies aſſign'd them; But *Lepidus* being diſarm'd by his Collegues was forc'd to lay down his Command. *Antonius* loſt not his, but with his Life, and *Octavius* having Overturned the Common-wealth obtained the Empire for himſelf and his Family.

Cæſar *the* Dictator *prolongs his Authority of himſelf.*

The Triumvirate *ended in Monarchy.*

Ancient *Greece* furniſhes us with many ſuch Examples, as *Piſiſtratus* of *Athens*, *Cypſelus* of *Corinth*, *Dionyſius*, *Hiero*, *Agathocles* at *Syracuſe*, and moſt of them who were entruſted with Armies by Republicks, untill they ſhould be ſettled, made themſelves Maſters of them, and ſeiz'd the Government for themſelves. Theſe practices being ſo very common, and every where to be met with; 'twou'd be ſuperfluous to illuſtrate this affair with more Inſtances. By what the Reader has already, he may be convinc'd, that an *Interrex* or *prorex* untill a King be Elected, has it in his Power to continue himſelf in his Government, either by ſubtilty, or beſtowing Gifts out of the Publick money, or corrupting the Citizens and Grandees, or at leaſt by the never failing Power of Force and Arms, ſo that he will never give them the opportunity of a new Election, unleſs he be well aſſured that they will chuſe him. All this time the Kingdom is miſerably haraſs'd and rent in pieces.

[a] Appianus Alexandrinus de bello Civili.

But shou'd we allow them some *Quintus* chosen for their *Interrex* who is to lay down his Regency on the Fifteenth day, or a *Servilius* on the Eighth, or a *Mamercus* to quit it the very day on which he receives it. Grant them a *Sylla*, who, tho' he had the *Dictatorship* for Eight years, yet divested himself of it upon the complaints of the Citizens, after he had extinguished the flames of Civil Wars with their blood. What is it, that an *Interrex* may not do? He commands all, has all the Signs of Honour and Authority and is necessarily entrusted with the Fortresses, Garrisons, Armouries, Ammunition, and whatever Provisions they have for War, and also with the Treasury, or all publick Money. Such advantages tempt and enable one to become a Tyrant. But if he finds that he is to have a Successor, and must quit his Post very soon, he will take care to enrich himself not only by appropriating to himself the Publick Money and emptying the Treasury; but also by force or forged crimes, whereby to dispoil Private men of their Substance. He will be sure to have an Indemnity, as well for the Injuries done to private Men, as for his Robbing the Publick of it's Money, before he gives up the Castles, and Fortresses of the Kingdom, and have that indemnity confirm'd to him, not only by the New King under his Seal, but also by the States, and under the great Seal of the Kingdom. Of which we have also seen Examples. At present I shall give for an Instance, *Alvarus Lara*, He was made *Interrex* of *Castile* by Queen *Berengaria*, with the consent of the Grandees of the Kingdom; His former Merits, and good Services rais'd their Expectations of him mightily: He made them many great Promises; and they all were full of Hopes. But he changes all of a sudden, Banishes some out of the Kingdom for feign'd Crimes, Invades the Revenues of the Church, procures to himself not only what appertain'd to the Publick, but likewise the possessions of private men, takes away from Patrons their Ancient rights of Patronage, and pretended the restoring the Worship of God, and the prosperity of *Publick Weal*, while he committed those unjust deeds. Yet he did things in haste, and Violently, without any regard to Laws, Times, or Danger; he made all affairs of Peace or War, to depend Entirely on his own meer pleasure. All this time Matters in the Kingdom were toss'd hither and thither, by different and contrary Endeavours, and aims, Factions being Arm'd one against another; whence proceeded Devastations, Murders, Fire, Sword, and an unbridled Licence of Ravaging and Outragiousness: Men were Exasperated against one another, all Ancient Magistrates, and Men of Birth and Estates were Destroy'd, that Upstarts might be put into their places.

Joan: Mariana.

But some may say, when the *Interrex*'s Government is at an end, he will be oblig'd to give account of his Administrations. So *Pericles* when *Questor* of *Athens*, being askt by *Alcibiades* Why he was so anxious; answer'd, That he was busied, because he must give an account of his Administration, or answer to the Republick for his Government. But, Why, says *Alcibiades*, do you not rather take care to make such accounts unnecessary. This saying made such impressions on *Pericles*'s mind, that for prevention, he commenc'd the *Peloponnesian* War, which lasted twenty seven years. In which time *Pericles* dying, without giving any account of his administrations, ruin'd his Country of *Athens*; which at that time was brought under Subjection to the *Lacedamonians*. These and such like things are usually practis'd by such sort of Governours, who are only entrusted with Authority for a certain time. However it be, this Go-

vernour will be ſure not to change his Poſt, untill he gets a general releaſe and acquittance in full for all his Oppreſſions and wrongs done, and of all other crimes by him committed during the time of his Government, for which he might be, queſtion'd. And truly his demand will appear, to moſt people, reaſonable, his friends will be ſure to adviſe him not to quit on other terms, but to have them ratified in the moſt ample form.

Crimes cannot be puniſh'd in Interreigns.

There is no hope then to prevent or guard againſt the Commiſſion of the moſt atrocious crimes in the time of an *Inter-reign*, or ſufficient proviſion made that Juſtice and Equity ſhall be adminiſtred. But all things tend to confuſion, Juſt and Unjuſt, Good and Evil, things of the laſt Conſequence, and trifles, will be ſo jumbled together, that no after care or application will be ſufficient to ſeparate them. The *weal Publick*, while this new King is a chuſing, will be like a Ship left to it ſelf in the Sea in a Storm without a helm, driven and toſs'd, with Wind and Waves. The people will be torn aſunder with Factions, their Goods become a Prey to Spoilers; Murders, burning of Houſes, Plunderings and Revenges will rage every where, with impunity. No avenging wrongs or reſtraints of Laws, is to be lookt for, during the Intermiſſion of Juſtice, or the *Interregnum*, when there is none to reſtrain the diſorderly. And a new King will ſtrive but in vain to retrieve the Authority of Laws and Statutes which have been trampled on by the Licentiouſneſs of former times. He will think fit to begin his Reign with a gracious pardon for all paſt faults how heinous ſoever, if he ſtudies his own quiet and peace, and that of his Friends and Country. Such are the beginnings of Elections, ſuch miſchiefs in the very threſhold, that I doubt are not to be repair'd afterwards, by all the pretended benefits and advantages of an Elective Government, or an Elected King.

of Harold *and the Conquerour.*

Whilſt all things, for Solemnizing a new Election, are preparing, perhaps ſome *Harold* ſteps in, who ſupported by his friends and dependants, Seizes on the Crown, mounts the Throne and poſſeſſes himſelf of all the Badges and Enſigns of the Royal dignity, without the Conſent of the great men of the Kingdom, or the Miniſtery and Bleſſing of any chief Biſhop at his Coronation, prevents and eludes the choice or meeting of the States of the Kingdom; They on the other hand, finding themſelves neglected and injur'd, and the Conſtitution of the Kingdom violated, to gratifie their reſentments, give encouragement to, and Invite over ſome new Conquerour, who in leſs than a Years time, deprives this new King, both of the Kingdom and of his Life, with the ruin and overthrow of the Nation. I am in the next place, to conſider ſome farther ſteps of Elections, to ſee if any thing is to be found in them, that conduces to the ſafety of the People.

CHAP.

CHAP. VII.

Of the Inconveniencies which commonly happen at the time of an Election, and at the Meetings which are called for Electing a new King.

THo' nothing is of more dangerous and pernicious Consequence to a Nation, than to leave the Election of its King to the uncertain Suffrages of the People; yet having entered upon this Subject and the matter it self requiring it, I shall go on to consider briefly the Inconveniencies which usually accompany *Election* it self, in the *Meetings*, which are appointed in order to it. First then, if we may believe *Peter Belluga* a *Spanish* Lawyer, the People can neither assemble together, nor depart from their meeting, without the King's order; So much does all the Power of the People depend on the King. Neither can any persons whatsoever, Convocate the Subjects, without the Authority of their Soveraign Lord, without making themselves guilty of a Crime. I shall in the first place, treat of the form and manner of Election, next of the Persons who are the Electors, and Lastly of the person Elected.

As to the form and manner of making Elections, it was very different and uncertain: After the death of *Cambyses* the Son of *Cyrus*, and the *Magicians*, who after him had usurp'd the Kingdom of *Persia*, being destroy'd, the *Persians* agreed to have Monarchy or Kingly Government; which had always to that time obtain'd amongst them, and which they still preferr'd before any other form of Government. But the great men or Princes of *Persia*, not fully agreeing among themselves about the Election of a King, and the manner how it should be perform'd, they came all at last to consent in this, that he shou'd be their King, whose Horse shou'd be the first that shou'd Neigh before Sun-rising. Succes did approve even of this kind of Election, for *Darius*, who was chosen by this Lot, was the famousest among Ten Princes, and his Posterity possest that Empire with Honour and Bravery, even to the time of *Alexander* the *Great*. The way of Election or Chooſing by Lot, seems also to have been taken from the Sacred History, as we read was done in the Election of *Saul* by *Samuel*, and, as I hear, this custom is kept among the Children of the *Muscovites* to this day. The Emperour of the *Turks*, when he has several Sons, does not prefer his first Born, but chooses and appoints for his Successor which soever of them he pleases, and thinks fittest for Government. *Aristotle* tells us, that among the *Æthiopians*, they us'd to choose the Tallest man [a]. The *Mammalukes* in *Ægypt*, chose him who was Richest, and cou'd bestow the greatest Gifts, and Donatives, wherewith to glut the insatiable Covetousnese of the Souldiers. The *Pretorian* Bands at *Rome* did the same, in advancing *Didius Julianus* and several others to be Emperours. Sometimes extraordinary strength of Body, was their chief inducement, as in the Case of *Maximus* a *Thracian*, who was preferr'd to the Imperial Dignity, for his extraordinary and Gyantick bodily Strength, who because of his huge big Body and great Strength, was believ'd to be Descended of the Race of the Gyants. Some were chosen for being extraordinary Handsom, or for the Proportion and Comelineſs of their Bodies, as *Heliogabalus*; others for their Age as in *Arabia* and *Taprobane*, the Ancientest men were chosen. Among the *Scythians* the greatest Drinker was chosen to be the King, says *Ari-*

The manner of Election among the Persians *after* Cambyses *and the* Magi *were killed.*

The manner of Elections various.

[a] Lib. 3. 3. πολιτικ.

Ariſtotle [b]. I know our Neighbours are wiſer than to take up with any ſuch Forms of Election, or to Imitate ſuch Precedents, and it may be preſumed that they will be only for that kind of Election, which is by Suffrages, or Votes of the people duly Collected. So as that ſuch a one may be choſen, who for his Merit and Virtue, deſerves beſt, and is fitteſt to Govern them. So *Numa* was made King of the *Romans*, by the free Choice of all the people of *Rome*, for his Virtue and extraordinary great Reputation. Tho' even this manner of Election is attended with its own Inconveniencies, yet 'tis this laſt kind only which I ſhall here enquire into.

Who are Electors.

Here then it will not be amiſs, to take notice of the *Electors* who are to chooſe this new King, and theſe muſt either be, the whole Body of the People of whatever Rank, that is whether Common people, or the Nobility, or Great men of the Kingdom; or the people, as diſtinguiſh'd from the Quality, or the Great men of the Kingdom, without the Commons. As to the Mob, that Proverb is verified in them *Lupum auribus teneo, I hold a Wolf by the Ears.* For I cannot ſee, how this King can be choſen without the conſent of the People, nor how it can be well done, by their Votes. For ſhould an affair of ſo great importance, be tranſacted without the peoples conſent, they would doubtleſs be enraged at ſuch a neglect, and might be tempted to take arms, and to commit great outrages in their fury: What will they not do? The *Roman* Hiſtory affords us many Inſtances, how irreſiſtible and impetuous the force of the People was, after they had expell'd their Kings, when provok'd by Anger, Hatred and Neglect. And truly if they require to be conſidered, and regard had to them at the Aſſemblies or Meetings, for Election, their demand cannot but ſeem Equitable to all. That is a Common Saying, *Quod omnes tangit ab Omnibus debet approbari.* That in which all have a concern ought to be approv'd of by all. And ſeeing this new King is to have Dominion and Power, not only over their Eſtates and Subſtance, but alſo over their Perſons, how can they juſtly be denyed an intereſt in his Election, the people will ſeem to demand a thing that is juſt. 'Tis to be expected, that the people will more readily yield obedience, when they have been allowed to enqure, and ſatisfie themſelves, concerning the Character and Perſon of this new King, and had their ſhare in his advancement, but if otherwiſe they ſhould be forced without their conſent, and againſt their Will to own Him for their King, they will be readier to raiſe Tumults and Seditions. In our Age, we have ſeen *Mary* Queen of *England*, advanc'd to the Throne of her Fathers, by the people only, almoſt againſt the Inclination of the Nobility. So that nothing is to be done, in ſo weighty a matter, without the conſent of the people; For no doubt, ſhou'd they be ſenſible of their being neglected and ſlighted in ſuch an affair (which is moſt carefully to be avoided, in every well conſtituted State) what may not their reſentments embolden them to attempt and ſtrive to compaſs. Beſides, if we examine this whole affair truely, it will appear perhaps, that the merits of the multitude with regard either to the King or the *State*, are not ſhort of thoſe of the Nobility, or any Order or Rank of Subjects. For in war unleſs the people be conſulted, they cannot but take it very much amiſs, becauſe the King Fights with the peoples Hands; and Money, which is the Sinews of War, is ſupplied by them; and if their aſſiſtance be ſo very neceſſary, both in Peace and War, their conſent who give the Money ought alſo to be had. Whence 'tis evident that very great regard is ever to be had to the people, whether in eſtabliſhing or preſerving the publick Safety.

Regard ought always to be had of the People in chuſing a King.

On

The Inconveniencies that attend popular elections.

On the other hand, if the Votes of the Multitude muſt be had alſo in this affair, into what difficulties do we fall, and on what Rocks and Quick-ſands muſt we Stumble. 'Twill be very hard, if not impracticable to bring the Multitude together into one place, harder yet to Conſult them; and next to impoſſible to keep them in Order. 'Twill take a conſiderable time before they can meet, time and place muſt be appointed, and a Lawful Citation and notice muſt preceed their Aſſembly, for without that they can never meet. And after all this, ſuch as have not been preſent, if any part of them be abſent, may think themſelves not tyed to ratifie and approve of what has been done without their advice; they will Look out carefully to find ſome back door, and endeavour to make void and undo all that has been done; And hence a farther day muſt be appointed for them who were abſent from the former meeting, and no man can divine, when theſe popular Aſſemblies will be ended, and the affair for which they meet tranſacted. I ſhall bring one Inſtance from the *Roman* Hiſtory, by which the Reader may judge or make an eſtimate of the voice and conſent of the people, at their meetings, on the day appointed for them.

An Inſtance from the Roman hiſtory.

After the Battel of *Cannæ*, while the people of *Campania* being dazled with the Succeſs of the Victorious *Hannibal*, who had given the *Romans* ſo great an overthrow, meditated a defection to him, and the Senate diſſented from it; they reſolv'd to execute their deſigns, even by a crime of no leſs Size than that of murdering their Magiſtrates, in the firſt place, and afterwards to declare for, and to ſide with *Hannibal*. Which when *Pacuvius Calavius* their *Mediaſtuccius* or chief Magiſtrate, perceiv'd and was alſo affraid of, and being a ſubtile man, but not deſperately wicked, he falls upon an expedient not only to preſerve the Senate from that impending danger, but alſo to reconcile them to the people. And to this end the Senators, to eſcape the imminent danger their Lives and Fortunes, were in, put themſelves in his power, and under his conduct, and he in the firſt place makes them all Priſoners in the Senate Houſe. And having ſhut the doors on them, he aſſembles the people and harangues them to this purpoſe, Now, ſays he, 'the long wiſh'd for day 'is come, in which the people may inflict puniſhments on the wicked 'and execrable Senate, without tumult or blood ſhedding; they are all in 'ſafe Cuſtody and in my power and I will bring them forth to you 'one by one, that Juſtice may be done on each of them; in the mean 'while 'tis neceſſary to uſe ſuch moderation, as that the Common-wealth 'may continue ſafe and undiſturbed: for tho' theſe Senators have by their 'own demerits become objects of the publick hatred, yet the people neither 'can, nor will conſent to be altogether without a Senate. Two things 'then are to be done, that is, to take this old Senate out of the way, 'and to chuſe a new one. That theſe two things may be done eaſily 'and without Tumult, I will take care that each of them be brought 'forth, that Judgment may paſs upon them, and that they may ſuffer 'the Sentence of Death, provided that a New Senator be firſt choſen for 'his Place who is to be put to Death, before his Execution; accordingly Lots being caſt, he brings forth that Senator on whom the Fatal Lot fell, and having required their Sentences, they all with one Voice condemn him, as being the worſt of men, to be worthy of Death. Well, 'ſays *Pacuvius*, I perceive that this is a naughty and wicked wretch, and 'deſerves to loſe his place, but now look out from amongſt your ſelves

Pacuvius's harangue to the people of Capua.

'for one whom you may chuſe to Succeed to him in his Place. This 'Silenced them all at firſt, for want of a better man to Subſtitute in his 'place. At length when one of them laying aſide Modeſty, took upon 'him to name one for that Poſt; a far greater outcry was immediately 'rais'd, ſome ſaying, they knew not the man, others loaded him with 'reproaches for his faults, meanneſs, and ſordid Poverty, others his 'ſhameful Employment or way of getting his living. The Outcry increas'd 'much more as they came to chuſe the Second and Third Senators, till 'at laſt the people themſelves came to relent, having no better men to 'confer that Truſt and Dignity upon, it availed nothing to name others, 'becauſe they cou'd hear nothing of them but Infamy and Reproaches; 'and ſuch as were afterwards nam'd were ſtill meaner, and more obſcure 'Perſons than thoſe who firſt occurred to their memories, ſo that the 'people began to ſteal away as men aſham'd, ſaying that the moſt 'known Evil was moſt tolerable, and they order'd their Senators to be 'ſet at Liberty. In this Story we have a lively Repreſentation of the temper of the multitude, which cannot be ſatisfied with the preſent conſtitution of Government, and are not capable to mend it, or to find a better, till changing their minds and diſcourſes, they return to their old conſtitution and form of Government. And perhaps the like event will follow theſe popular conventions, ſo as when all the Competitors for an Election come to be nam'd, not one ſhall pleaſe, but on the contrary the people will Load them with Reproaches and Contumelies, then they will find it their wiſeſt courſe, to return to their manner of advancing Kings in former Ages to their Thrones, ſo as he who is the neareſt in Blood be choſen to Succeed to the deceas'd King.

Livius. lib. 23.

Electors commonly claim a power to lay aſide.

This is alſo here to be remark'd in nominating the Competitors, that no man ſhou'd offer to ſtand Candidate at the Election, who is not prepar'd to hear all his own faults publiſh'd, and after that to be alſo rejected, but in this perhaps the multitude is not ſo much to be blam'd. There is yet a greater inconveniency, for by allowing the whole multitude ſuffrages in chuſing a King, firſt you allow them neceſſarily the rights of Majeſty, that is, you raiſe them above the King, when they can chuſe and make him; and therefore they will not fail even to Arrogate a power to themſelves to depoſe Kings. For the Lawyers think that nothing is more natural, *Quam eodem modo quidvis tolli quo colligatum eſt. Than for any thing to be taken away by the ſame power by which it was Eſtabliſh'd* • and conſequently he who is choſen King muſt Reign precariouſly, and for the leaſt offence incurr the diſpleaſure of the people. And he who thus ſtands in awe of them, cannot be thought to have courage enough to puniſh their crimes. For the people tho never ſo wicked will ſecure impunity to themſelves, the King muſt know that he holds his Crown from their favour only, and that they can dethrone him at their pleaſure. And how then can it be expected that one who Reigns only at their diſcretion, ſhou'd have courage to reward and puniſh them according to their deeds.

• L. nihil tam Naturale & L. omnia de reg. juris.

And oft times troubleſome times and great Calamities befal Kingdoms, and many things will fall out, which cannot but diſpleaſe ſome people; from theſe diſcontents ſpring frequent Tumults, Seditions and Rebellions, which commonly end in the Elected King's overthrow, if the people be ſtronger than he. For 'tis very hard for a new King to eſtabliſh and confirm his own Authority and Government, when neither his Kingdom

nor

nor his manner of Government have taken deep root; What man, ever govern'd *Athens* with greater renown, than *Phocion* did? He was really, as well as esteem'd, the best man of all *Greece*; and had been forty five times chosen by the *Athenians* General of their Army, even when he was absent and knew nothing of it. Yet at last this most excellent Person with all his Friends, was put to death by the raging mad people. When he understood that they had condemned himself, and his Friends to suffer death, he said to them, tho' I may seem to deserve it, yet why must these Persons, speaking of his Friends, be forc'd to die with me? The furious *People* answer, Because they are thy Friends. A notable reason this was which was given by the *bellua multorum capitum*, for killing his Friends, after they had so often acknowledg'd him a good man, and so often before chosen him their General, and entrusted him with their Army; yea most of them cry'd out to have him also exquisitely tortur'd to death, and that his Body shou'd not be buried in *Attick* ground, tho' after his Death, they Erected for him a Brazen Statue. In like manner the *Plebs* or ungrateful Mob, condemned Men of the greatest Worth and Integrity, such as the *Scipio*'s, *Rutilius*, *Cicero* and others. We shall afterwards meet with such another instance of the Raving Multitudes doings, in their Dethroning *Richard* II. King of *England*. For the Multitude always are Enemies to Sound Counsels. I cou'd also relate what the *Syracusans* did, after the Death of *Hiero* their King, to his Children, and to his Nephew *Hieronymus*, and what Treatment the whole Family had from them. I cou'd bring Innumerable Examples from *France*, *Flanders*, and *Germany*, from which it wou'd appear, that whenever the Multitude took upon them to do what they pleas'd, they never fail'd to Endanger or Ruine all. But 'tis not necessary to go so far for them, we have store of Domestick ones, to shew us what the distracted Mob is capable to Attempt and do, when they perceive themselves at Liberty to do what they list. The *English* Historians afford us many sad Relations of the Fury and Mischief of the Mob. I shall only give you one Instance of them. In the Reign of *Richard* II. when a Rebellion was rais'd by the Inhabitants of *Essex*, and other English Mob, that join'd them, the Rebells became so Insolent and Wicked, that they reckon'd it a Sport to kill any Man they met on the Road. The Head and Ringleader of this Rebellion was *Watt Tyler*, who was so Impudent as to boast before many Noblemen and others, that in less than Four Days, there should be no Law in *England* but what should come from his Mouth. 'Tis evident from what has been said, that Suffrages can neither safely be allow'd the Multitude, nor be denyed to them, without great Danger. It might be a Dangerous precedent, should a Title of so great Honour not be conferr'd by Right and Law, but be the Reward of Popularity, bestow'd by the Rash Giddy Multitude, to Gratifie or Indulge their Irregular Passions. And yet I cannot see how this Election can proceed and take Effect, without the Consent of the Multitude, unless we knowingly and willingly throw our selves on manifest Calamities, which never fail to accompany Sedition.

Some examples of the mad and unconstant multitude.

Plutarchus in Phocione.

Holinshed *in the life of* Richard II.

But some will be ready to say, that the Consent and Suffrages of the whole Multitude, which is nothing else but *a many Headed Beast*, is not requir'd; for what place is sufficient to receive them? What time wou'd it take to Poll them? But seeing without their consent neither Right, nor profitable Expediency, which the Poet calls, *veri prope Mater & æqui*; allow

The expedient of procurators.

Election,

Election, the mind and deſire of the People may be had, by the means of one or two Repreſentatives from each Shire or County. And what their Sentiments are, and what they wou'd have done, in ſo conſiderable an affair, may be Lawfully Tranſacted, by the more Wiſe and Moderate men of their own County, and that with the greateſt Eaſe, without Tumult, Sedition, or Concern. The Author of this Scheme means, I ſuppoſe, the *Procurators* or *Attorneys* by whom the conſent of the Multitude is had and Declar'd. But ſtill the People muſt be allow'd the Power of Naming and appointing their *Procurators*, among whom not always good men, but the moſt Reſtleſs and Factious bear Sway, eſpecially if they be well ſpoken and Eloquent, who by the Glibneſs of their Tongues can turn the People as they pleaſe.

Concerning procurators for Counties.

But allowing them, that this great affair may be Tranſacted by Procurators, yet it may be Queſtion'd afterwards, whether they were Lawfully and Duly Elected; for if one ſhou'd be choſen King by theſe Procurators, whom the People had no mind ſhould be choſen, they will ſay, that their Repreſentatives abuſed their Truſt, and that they were only Empower'd to make choice of ſuch an one, as ſhou'd be moſt for the good of the Kingdom. Or perhaps they will ſay, that they ought to have Written back, and had the Advice of their Conſtituents concerning the Competitors, and whether ſuch an one was nam'd as would pleaſe them. They may ſay, that their Procurators have committed a Grievous, Unpardonable fault, in chuſing ſuch a man, when there were many in the Kingdom more eminent for their Birth, Virtue, Fame, and great Atchievements; and Laſtly, of greater Piety than he; out of which Number one might have been choſen, had the People been adviſed with, who wou'd have more regarded the Intereſt and privileges of the People, what if they ſay that their Deputy has not Acted agreeably to the Secret Inſtructions they gave him? What if they Limited and Obliged him, to Vote for one of the great men, whom they thought moſt Popular, or in general, for the Perſon who was moſt acceptable to the People? 'Twill be uncertain here whether the Publick good, or Popular favour ſhould have the preference: Judgment will be made by the event. Many more Objections may be made by the Multitude on this Head, whether true, or having only the appearance of Truth, and ſometimes falſe: Yea they may ſay, that they never gave their Conſent for ſuch a man to be the *Procurator*, and that he was only choſen by the Suffrages of a Few Rich and Factious men: So here is another Occaſion of Tumults and Seditions.

Procurators oft times are corrupted with bribes.

But ſuppoſing thoſe procurators to be duly elected, and appointed by the people whom they repreſent, and fully empower'd to act in their Name, ſo that no defect in this deed of the people can be objected, is there then no farther danger? Yes truly, and perhaps ſuch real ones as no precaution or conduct is ſufficient to prevent. For no ſooner are theſe Procurators choſen and declared, than he who aſpires to be choſen King, ſtraight employs his Emiſſaries to purchaſe their ſuffrages for himſelf by Gifts, and alſo by large promiſes when he cannot afford enough of ready money, and by theſe and ſuch like ways endeavours to get himſelf preferred to all others, tho' he have no other merit. For Ambition ſeems to be connatural to men, and the fault of corrupt nature; So that men ſtick at nothing when they aim at Soveraignty and a Crown, but make their way to it by the worſt and moſt wicked Arts

He who aims at a Kingdom ſpares neither Money nor Promiſes, that he may obtain his end.

and

and Practices ſuch as baſe Treachery, Deceit, Cunning Craftineſs, Briberies and Murders. *Pro Regno, velim patriam, parentes, conjugem flammis dare, Imperia quovis pretio conſtant bene. For a Kingdom,* ſays *Polynices, I wou'd commit my Country, Parents and my Wife to the flames. Empire cannot be too dear Bought.* So that nothing will be left undone, to gain that which brings all Honour, Dignity, and Riches along with it. Seneca *in* Thebaide.

But may not the Procurators or Proxies be ſuch Men as *Fabricius*, or *Phocion*, one of which refus'd to receive Money of *Pyrrhus*, and the other from *Philip* with diſdain, (tho both of them Lived in extream Poverty?) Or like *Diogenes* who deſpis'd *Alexander*'s Riches, or *Ariſtippus*, who order'd the Riches he had purchas'd to be thrown into the Sea, becauſe the Burden of them made his Servants Travel ſlowly. But this is far from the Genius of this Age, which is ſo Degenerate, that there are no kinds of Crimes, however Unnatural or Monſtrouſly Wicked, but Money is ſufficient to tempt men to commit them; He is almoſt a Singular man who is proof againſt Gifts or Bribes: For as the Poet ſaid, *Bribery commonly takes place in moſt Elections among all ſorts of people.*

Munera corrumpunt animos hominumque deumque:
Placatur donis Juppitur ipſe datis.

The force of Bribes both Heaven and Earth invade:
Even Jove's *diſpleaſure is by offerings laid.*

When I was a Student at *Paris*, and a Rector was to be choſen by the Proctors of Four Nations, an Oath was taken of them to promote the Learneдſt and Modeſteſt man, and in caſe there ſhou'd be ſeveral *Candidates*, they were obliged to chuſe him, who excelled the reſt for his known Abilities and Good Converſation. One *John Demſter* a *Scotch* man, who was moſt Eminent for Learning, but an abſolute Stranger to the Corrupt Cuſtoms of that Age, and perhaps Vex'd to ſee them, being a Candidate, and hearing that thoſe Proctors who had engaged themſelves to Vote for him, had baſely failed him, having ſold their Suffrages to another for more Money, he ſhunned that Dignity which cou'd be bought. He was a man for the Auſterity of his Life, and his great Probity rather to be compared with the ſeverer ſort of Philoſophers, I mean the Stoicks, than with the men of that time. For tho' they were the Proxies only of Four Nations, yet they preferr'd him who gave moſt Money, they ſold their Suffrages to the higheſt bidder, and where they might moſt advantage themſelves: Faith and Religion were become ſo cheap, that gain only was thought fit to be minded. I ſaw that it was not only *Demſter*'s caſe but the common practice in all promotions to Rectories of Colleges, to purchaſe of the Proctors of the Four Nations, their Suffrages with Gifts; nor was there any attaining to ſuch a Preferment at *Paris*, but by baſe Corruption and Bribery.

By comparing the Conventions for Elections, 'twill be manifeſt to every body, what may be expected in the great and more populous of them; the Multitude uſually chuſing one of their own Kidney, that is one Fooliſh, Wicked, and Imprudent. What's more unaccountable than for the Ornament of Wiſdom and Wiſe Men, to depend on the Inſipid Multitude? This brings to my mind the ſaying, of *Anacharſis*, which he us'd jeſtingly concerning the People of *Athens*, and their Orators, that *Sapientes rerum gerendarum normam proponere, furioſos (Multitudinem innu-*

ens) *quid agendum, præſcribere. Wiſe men, ſaid he, propoſed the Rules of Governing, but Mad-men meaning the Multitude order'd what was to be done.*

The Great men of a Kingdom, whoſe power next to that of the Multitude is greateſt, are now to be conſider'd, with regard to an Election, for it cannot be made at leaſt not juſtly without their Conſent. For the great men, who are called the Nobility in every Kingdom, the Burden of the affairs of the Civil body, or Government lies on them, and the great and important affairs of Peace and War, are managed by them. They are beſt judges, which of all the Nobility deſerves to be King, and are fartheſt from being corrupted with gifts and bribes. But there are perhaps greater Dangers and Difficulties from that high Order of men, than even from the *Multitude*. This is to be ſaid for theſe, that it is no eaſy matter to Bribe them. What Candidate is able to do it, I mean either to corrupt the whole Body of the People, which is impoſſible or their Repreſentatives, who of neceſſity muſt be very Numerous? A River is not ſo eaſily Poiſoned as a Fountain; and by parity of Reaſon, an Innumerable Multitude of People is not ſo eaſily corrupted by Bribes, as a few Nobility. Beſides, the Common People are at the greateſt remove from Ambition, not one of them entertains a thought of being choſen King. So it's moſt likely, that the Multitude is leaſt ſtain'd with Ambition and Bribery, and both theſe are Remarkable in the *Nobility*, and no grievouſer Plagues can attend a Common-wealth or an Election. For which of the Nobility, of any Spirit, will own himſelf unworthy to have his Name liſted among the Candidates, or when 'tis pretended, that preference is given to Virtue, and Merit will take it well to be poſtponed, and not rather ſay with him in the Poet.

Corruption and Ambition are the two common plagues, in Election.

Occupet extremum ſcabies, mihi turpe relinqui.

Let ſhame o'retake the laſt, a generous mind
Thinks it diſgrace for to be left behind.

All men have ſuch ardent deſires after Dominion, as prompt them to admire and flatter themſelves, to extoll their own merits and Atchievements, and diſparage the Actions, Merits, and Virtues of other men in compariſon; there Flattery, here Envy Reigns. Nor will any man, who has a great Opinion of his own Wiſdom, tho' others differ from it, reckon himſelf unworthy of the Kingdom. For we are not Leſs apt to admire our own perfections, than to Envy the Vertues of other men; and it may be doubted on which of theſe Vices, men beſtow moſt pains. For if one deſigns to make himſelf popular, on the Account of his Vertues, He in the firſt place, puts on a New Face, and Acts a part ſuitable to that Dignity he aſpires to, his mein Grave, and his manners Refined. And tho' all this while, he is one of the worſt of Men, adding Hypocriſy to all his other Wickedneſſes, yet he affects to be thought incomparable in Vertue and Goodneſs. He will take care to have the People told of his Vertues, good Offices and Merits for the Common-wealth, and that the great men cannot make him a Commenſurate return, unleſs a chief regard be had to him at the Election of the New King. Other Competitors are not to be put in the Balance with him. 'Twould be a great Diminution to one of his worth, to be ſet upon the Level with them who muſt be thought to excell all for Learning, if this be what he pretends to; or elſe in Sobriety, and the Prudence of his Converſation hitherto, or his Faithful diſcharge of the Publick Offices he has been entruſted

truſted with. 'Twill be no ſuch hardſhip, he will ſay, for perſons of little worth to be rejected, who have never made themſelves conſiderable by their former merits, either in their private Station, or with regard to the publick, as for one of his accompliſhments, and heroick vertues to be baulkt of the reward due to them. After this, I fanſie, he will not fail to throw all the dirt he can on his Competitors, his invention muſt afford Reproaches, when no occaſion is given by his Rivals; and all this to Gratifie his own Ambition, and earneſt deſire of Reigning. For as for Bribery, to be ſure, he will omit nothing of that nature that he can do, to compaſs his deſign, but let fly his moveables, and will either mortgage, or quite transferr his Inheritance to others, either purely at a venture, or at leaſt upon fair promiſes of ſucceſs. And when he has Exhauſted all his Subſtance, (no private mans Eſtate, however conſiderable, being ſufficient for ſo many gifts and bribes,) he will Load them with promiſes of making them Rich and Noble, and to enjoy whatever they can deſire, upon condition that they declare for, and adhere to him. 'Twill be Eaſy to promiſe more than he can poſſibly perform. And put the Caſe, that ſome new *Jugurtha* Starts up in thoſe great Aſſembies, that is, one Famous for his Crimes and Infamy, and yet by gifts and promiſes, corrupts even the Chief men, and gains what he aim'd at, he may Exclaim againſt them, *O regnum cito perituram, ſi emptorem repererit*! Howſoon ſhould this Kingdom be Deſtroy'd, could a Buyer be found! *Hugh Capet* got the Kingdom of *France* ſettled on Himſelf and his Family, and the Off-ſpring of *Charles* the Great expelled, by promiſing to give Hereditary Fiefs of Lands, Countries, and Cities. *Charles* IV Emperour corrupted the Electors (who were only Seven, ſo as the Number, which might be corrupted, was not great,) with the promiſe of 100000 Crowns, to chuſe his Son *Venceſlaus*, whom he had made King of *Bohemia*, to be King of the *Romans*, that is, to Declare him his Succeſſor in the Empire. In the chuſing of Popes, which of all Elections ought to be moſt pure, and free from the Corruptions, which attend ſecular Elections, and where only thirty two Cardinals have Votes, neither are they all preſent, yet it is well known to all, who are not abſolute ſtrangers to the methods of the Court of *Rome*, that theſe Electors are mov'd to advance the Pope, by promiſes to prefer their Kindred and Friends to Eccleſiaſtical Benefices and Dignities.

Some make them 600000 Crowns.

Whatever the number of Cardinals was in the Author's time, there are now 72 who have voices at the Election of a Pope.

But if the Reader wou'd rather have Examples to this purpoſe from Ancient Hiſtories, let him take the following Inſtances, the Army being corrupted by *Octavius*, abandoned *Lepidus* one of the *Triumvirate*, and *Didius Julianus* compaſs'd the Murder of the Emperour *Pertinax* by the *Prætorian* bands, having firſt loaded them with promiſes. And *Otho*, who killed *Galba*, glutted the *German* Army with Gifts, but at the ſame time, making them greater promiſes than he was ever able to perform, he himſelf had but a ſhort Reign. Innumerable Inſtances may be brought of the Nobility, who have Suffrages in Elections, their being bribed, to preferr one before others to be King; For there is nothing that Covetous and Ambitious men will ſtick at, ſo as they may attain their Ends. I ſhall a little after take notice, how Fatal the Performance of ſuch promiſes are to Kingdoms. In the mean while, 'tis to be remark'd, that the Nobility will reckon, that great regard ought to be had to their Birth, more to their Vertue, tho but affected and not real, and every thing to their Money and large Promiſes. I will not ſay, that this is the fault of all of them, but only of the greater part, many being far from ſtain-

Appian. Alexandr. in bello civili.

ſtaining themſelves with ſuch ſordid Vices. Yet this I have obſerv'd in all Hiſtories, that theſe publick *Comitia* or *Conventions*, were for the moſt part always liable to Avarice and baſe Corruption, ſo that whenever one was to be Choſen and Advanc'd to any Dignity or Publick Office, that was Lucrative or Profitable, theſe meetings were commonly but ſo many Markets, where he that bid faireſt carried it.

Cunning craftineſs and deceit in theſe Conventions.

Ambition and Covetouſneſs are not the only Banes of Elections, but the baſe Arts of Craft and Deceit attend them alſo, ſome attempt to obtain by falſe Suggeſtions and Sly inſinuations what their Money cannot compaſs. Take, for all, the Inſtance of *Lyſander* the *Spartan*, who having the Ambition to be King of *Sparta*, which he cou'd not be by Law, that Kingdom being entail'd on the Family of the *Heraclidæ*, which had an Hereditary Right to it, he firſt took care to ſpread among the people that Queſtion, Whether it is better for the *Spartans* to have the beſt man choſen for their King, than one of the Nobleſt Birth? Not doubting but the choice wou'd fall to him, upon account of his famous Exploits, his Greatneſs, and the Friendſhip he had with the Neighbouring Cities. But this not taking with the people, who wou'd not be induc'd to depart from the Ancient Eſtabliſhment of their Kingdom, which was by Hereditary Succeſſion in the Royal Family, tho' the moſt famous Orator, *Cleomenes Halycarnaſſeus* made a Speech to favour *Lyſander*'s deſigns, which was Induſtriouſly handed about among the people, He reſolves at laſt to corrupt the Oracles of *Hammon* and *Apollo Delphicus*, and to feign the Determinations of thoſe Deities, and by that means impoſe upon the people, having deſigned to do this by a Comical Fable, as if the Oracle had ſaid by *Silenus*, the Son of *Apollo*, that *the Spartans were Commanded to chuſe the beſt man from among themſelves to be King*. The mercenary Heathen Prieſts being bribed by *Lyſander*, became Subſervient to his deſign, in propagating this Fable, ſo we may ſee that no order of men is free from the Corruption of bribery. And perhaps he had gain'd what he deſigned, (the City of *Sparta* being much addicted to Superſtition) had not one of the Actors, through fear, ſpoil'd the Charm, and failed to Act his Part. The like Scene has been alſo Acted in the Sight of all Chriſtendom, *Boniface* VIII. formerly *Benedictus Cajetanus*, Envying *Celeſtin* V. (who before he was Pope, was called *Peter* of *Morron*, and was a very ſimple man) the Papacy, and having falſly feign'd through a Canal, an Angelical voice, to perſuade the Pope to abdicate, and to take care that this *Benedictus* ſhou'd be choſen in his room. *Celeſtin* believing this to be a true Oracle or Voice from Heaven, perſwaded alſo the Cardinals of the truth of it, and ſo having abdicated the Papacy, this moſt wicked wretch was choſen Pope by the Cardinals. 'Tis moſt certain, that every man, ſo far as his reputation, riches and cunning can go, will endeavour all he can to raiſe himſelf to ſo great dignity and power, eſpecially when there are ſeveral Competitors, claiming this preferment and honour as their due. Many more Inſtances to this purpoſe may be brought, but I perceive this diſputation ſwelling to a bulk too great.

Lyſander. Plutarch *in* Lyſand.

'Tis ſaid of this Boniface that he entred the pontificate like a Fox, liv'd in it like a Lyon, and died like a mad Dog.

Objection. But ſome may ſay, that many great men will be proof againſt Bribery, ſo that when theſe aſſemble with the people's repreſentatives, it may reaſonably be hoped, that in ſuch lawful Conventions, a man eminent for his merits and piety, who may be ſafely entruſted with the Government of the Kingdom will be choſen. But I would know what

Anſwer.

poſſible

poſſible aſſurance can be given, that the Nobility and the People or their repreſentatives, will agree in their Choice? Let us put the caſe in *England*, and let enquiry be made for the Beſt man in it, to whom the Government may be entruſted with the greateſt Advantage, or at leaſt, with the leaſt Hazard to the Nation; diſſentions will be unavoidable. Some will be clear and reſolute, for preferring the next in Blood of the Royal Family, and not raſhly to depart from the Conſtitution they receiv'd from their Anceſtours. Others ſetting aſide the *Right* of Succeſſion, will declare themſelves for one, that they fanſie may be moſt for the good and benefit of the People. A third ſet of them, will blame the Nobility for oppreſſing the People, and will declare for ſuch a King as is moſt popular, and as they think will be moſt for the intereſt of the people, and deliver them from ſome part of their burdens and ſervices; The fourth will put them in mind of the deceas'd Queen's determination, and laſt Will, and that the Parliament did conſent to, or grant her power of naming her Succeſſor. There ariſes a new debate, whether ſhe on her Death-Bed, or even when ſhe was in Health, could determine her Succeſſor, and invert the Laws of her Predeceſſours concerning the Succeſſion? Or ſuppoſing ſhe cou'd do it, yet her laſt Will could never be ſo binding as to deſtroy that perpetual Law and Right, by which the next Heir in Blood is called to Succeed. Can the Subjects be more bound by this one laſt deed of Hers, than by the perpetual Law of Succeſſion? So diſſentions muſt unavoidably follow, when every one thinks he hath power to diſpoſe of the Kingdom, and to lay Obligations on the new King, as if he owed the Kingdom to Him. Perhaps it may be a Queſtion, among the ſeveral Competitors, whether it be not more expedient, to chuſe a Foreign Prince, than to advance one of their one Peers, to the Throne? Here will be a moſt Spacious Field for diſputes. How keenly will all Parties contend among themſelves? what Reproaches, Recriminations and ſtrange Calumnies will be heard? Yet at laſt it muſt come to a Poll, and when ſo great an affair is to be determin'd by voices, what delays will enſue? 'twill be hard to diſpatch it. For the Multitude is the Mother of Diſſention; But if a few ſhou'd be choſen to end that Controverſy, the Multitude would exclaim againſt it, as a thing unheard of, and not to be ſuffered, that the greateſt Kingdoms ſhould be diſpoſed of at the Pleaſure of a few Perſons. But that in all Elections theſe things will neceſſary happen, that the greateſt number of ſuffrages are allow'd to carry it, as in all Controverſies, which are to be decided by a great number of perſons the moſt votes prevail. And 'tis not a more common than it is a true obſervation, that *Major pars vincit meliorem*, the greater party carry matters againſt the better, as alſo, that the ſuffrages of the Multitude *are Number'd but not Weighed*. And ſo many depart from that great Meeting diſpleas'd with what has been done at it; one ſaying, that a better choice might have been made, another that he can never be able to ſatisfy himſelf as to him they have choſen, and that the next of the Royal Family is the better man, and ought to have been preferr'd. Others will complain that Juſtice and Right have been Subverted, and ſuch as were abſent, or did not conſent, will Endeavour all they can to undo that Election that was made by others, *Hinc illæ lachrymæ, hinc offenſionum Cauſæ*. Great miſchiefs ſpring from ſmall beginnings, as ſmall ſparks, unleſs timely Extinguiſh'd, may in time break forth into Flames which cannot afterwards be quench'd; or

Perpetual diſſentions in theſe Aſſemblies.

'Tis not eaſie to diſpatch an affair where the Multitude have voices.

The Votes of the Multitude are numbered but not weighed.

like water, at firſt burſting thorough the ſmalleſt Canal, cannot afterward by any means be Stopt. We uſe to ſay, and not without reaſon, that the *Mother of Miſchiefs, and Seditions is no bigger than a Midge's wing*. So that great Calamities, and Troubles, take their riſe from very inconſiderable beginnings, as great Rivers do from ſmall Fountains or Springs. So that in a little time, Seditions and Rebellions muſt enſue. Neither can it be otherwiſe, but that in ſo great a Confluence of People, many of them will diſagree, and draw in others to their Faction, eſpecially if they be Rich, and much in Favour with the People, and if they ſeem to have good Reaſons for their diſſent, and that the Election may alſo ſeem to be to the hurt of the Common-wealth, and when they have once drawn them in many to their party, they will make ſure of them, by fair Speeches, and good Offices.

But it may be ſaid, that there is one thing Sufficient to over-balance all thoſe inconveniencies, that is, a good man, and ſuch as was moſt Earneſtly for the People, ſhall be choſen King: This happyneſs of having none other but a good man Elected, is to be expected from an Aſſembly of ſo many great men, where men of true Piety, and many having excellent natural endowments, and acquir'd accompliſhments, meet together, and have liberty of Speech. They cannot be ſuppos'd to chuſe one, who will peeviſhly thirſt for the Blood, or covet the Riches, or Poſſeſſions of others. And was the Election ſo managed, it might perhaps make amends for all the Inconveniencies that I have reckon'd up. But the Poet tells us, how hard it is to find a good and wiſe man.

Good men are very rare.

Vi bonus & ſapiens qualem vix reperit unum
Millibus in multis hominum conſultus Apollo.

One Good Wiſe man, Apollo *ſcarce has found,*
Tho' skill'd in Hearts, in all his annual round.

For my part, I doubt not, but many private good men are to be met with, but of thoſe who are made Kings by Election, good men are as rare as a Phœnix in *Arabia*.

Rari quippe boni & vix totidem quot
Thebarum portæ aut divitis oſtia Nili.

Of honeſt men, we find ſo ſmall a Store,
The Gates of Thebes, *the Mouths of* Nile *are more.*

Virtue is commonly ſo much Envy'd by all, and men grieve, and are ſo vex'd, to ſee that in others, which they cannot find in themſelves, that they make it their Buſineſs to ſuppreſs it. Yea I may be bold to ſay, without falling under the Imputation of Raſhneſs, that in thoſe *Meetings*, bad men are oftner choſen, than thoſe of Probity and Virtue. Men are never more frequently deceiv'd, or more Faulty, than in Diſtinguiſhing between the Vertuous and Vicious. What if inſtead of *Paulus Æmilius*, a *Terentius Varro* be choſen, who at the Battel of *Cannæ*, brought the Common-wealth of *Rome* upon the brink of Ruin? What if a *M. Minucius*, who expos'd the *Roman* Army to be Slaughter'd by *Hannibal*, be made equal in command to *Q. Fabius Maximus*, by the *Comitia publica*?

But

But that all men may be convinc'd of this Truth, that in thoſe Elections, the moſt Wicked men, are moſt commonly rais'd to the higheſt Dignities, I ſhall briefly run over the promotions, both to the Civil and Eccleſiaſtical Government of *Rome*. Not to inſiſt on *Rome*, while it was a Common-wealth, which alſo had its Rabbles, *Tribunitian Seditions*, and infinite Diſorders and Confuſions; I ſhall curſorily touch what Miſchiefs befell it in the times of its Elected Emperours. When *Auguſtus*'s Family was going to Ruin, the Emperours were firſt choſen by the *Pretorian* Bands, afterwards by the Army, that is, the moſt Wicked Sort of men choſe, by their Suffrages, the moſt profligate Wretches to be Emperours, from whom they expected the greateſt Rewards. Such were the greater part of them, as *Otho*, *Vitellius*, *Didius Julianus*, *Maximinus*, *Maxentius*, *Phocas*, and other *Cæſars* in the Weſtern Empire, and alſo in the Eaſt, untill *Conſtantinople* was taken by the *Turks*. Did they not generally make way for themſelves to the Imperial Dignity, by Murdering their Maſters and Predeceſſors? Let them all be Nam'd, and it will appear upon a juſt Calculation, that there have been three times as many *Nero's* and *Heligabalus's*, as there were *Auguſtus's Trajan's* or *Antonine's*, and yet all the Wicked Emperours were choſen and rais'd to that Dignity by Military Suffrages. For where-ever Election or Elective Government takes place, the Army will have the greateſt Hand in it, and the Senate it ſelf, (which was very conſiderable at *Rome* in thoſe days,) with all the good men there, who are ſure to be condemn'd by the Souldiers, Struggled, but in vain, to oppoſe them. And what was moſt Intolerable, when once the Souldiers had Uſurped the Privilege of chuſing their Emperours, they would never quit it, tho' often Solicited to do it by the Senate, who endeavour'd to retrieve to themſelves, that right which they had from the beginning. And *Galba* himſelf, the greateſt man among the *Romans* for Military Conduct, and the Nobleſt *Roman*, was choſen by the Army to be Emperour, and was afterwards Kill'd by that ſame Army. The Eaſtern Empire, where meer Election alſo had place, was as unhappy. *Rodulph* Duke of *Suabia* was choſen Emperour in oppoſition to *Henry* IV. And *Henry* V. took arms againſt his Father by the Election of the Princes of the Empire, and reduced him to the laſt Extremities. It wou'd make ones Hair ſtand on end to relate what fell out in *Germany*, when above 300000 men were killed in thoſe Wars, which had no other cauſe but the Subſtituting and chuſing one into the place of another Emperour.

Emperours choſen by the Army, and the worſt ſort of men.

But, ſome may ſay, that it is otherwiſe in the Eccleſiaſtical Governments of *Rome*. For when a Pope is choſen, none are allow'd to vote but men of Piety and Learning, and who for their good Life are made Biſhops and Rulers in the Church, and are well inſtructed in the School of Chriſt, they cannot be preſum'd to chuſe any to be the viſible Head of the Church, but ſuch as are famous for their Piety, conſpicuous for their Merits, and Eminent for the Holineſs of their former Life. And yet 'tis moſt undeniable, that greater faults are no where committed than in that Government; for no ſooner had the Church reſt from Perſecution, but the Riches gotten by Devotion, like the unnatural Daughter that is ſaid to have killed her Mother, chok'd it; from that time, there have been great conteſts at the Elections of Popes, Seditions, Briberies, Indignation, Hatred, Witchcrafts and Butcheries. I gave one Inſtance already in the fourth Century in that conteſt between *Damaſus* and *Urſicinus*,

Eccleſiaſtical Elections attended with the like Inconveniencies.

Ammian. Marcell. lib. 27.

Urſicinus, in which 137. men were found murder'd in the Church of *Siſinnius*. In the Reign of *Juſtinian Anno Dom.* 530. in the tumults occaſion'd by the Election of a new Patriarch 30000 men were killed in the City of *Conſtantinople*. And tho' great care was taken, that none but good men ſhou'd be choſen Popes, yet it often happen'd that moſt wicked wretches, Wizzards, Necromancers, Adulterers, Bloody men and Incendiaries got into the Chair. In that conteſt between *Stephanus* and *Formoſus* the dead Bodies did not eſcape their Cruelties, but contrary to all Humanity were dug up, beheaded, the Fingers of the Prieſts which had handled the Bleſſed Sacrament were cut of, the trunks of their Bodies reduced to aſhes, and ſtrow'd in the *Tiber*. With little better Succeſs, have the Elections of Biſhops of leſſer Sees been perform'd, whilſt all the contending Parties endeavour'd all they cou'd, to have a man of their own Faction rais'd to the Epiſcopal Dignity, Strife, Slaughter and Butcheries enſued among the Citizens. Such things happen'd among them who of all men ought in their choice to have pay'd the higheſt regard to Vertue and Conſcience. What then is to be lookt for, in Kingdoms, where the moſt popular man, and who is moſt conſiderable for his Riches, Vaſſals and Kindred or Alliance (tho' he be never ſo unfit for Government) will be choſen before the modeſteſt and moſt deſerving man of them all.

Proſperity oftimes corrupts mens manners.

But to ſay no more of this, let us for once allow them that one is choſen to be King, who is well eſteem'd by all, and who by the Regularity of his former Life and the Splendour of his paſt Actions, ſeems to deſerve that Truſt and Dignity, before any other. I wou'd ask my Adverſaries who will engage for his future Behaviour? How many Hypocrites have put on the appearance of men of the ſtricteſt Vertue, while they were aiming at the See of *Rome*, or even at ſome leſſer one? How many Monks have impos'd on their fellows by an affected Simplicity and Humility, untill by their ſeeming vertue they got themſelves choſen Heads of Monaſteries, who afterwards have put off the Mask and by giving looſe Reins to their vicious inclinations have commited the moſt flagitious crimes? Nothing in the World tempts men more effectually to Feign, Diſſemble and play the Hypocrite, or to reſtrain all the Diſorders and Irregularities of a wicked mind from breaking forth, than Ambition doth; nor is any thing ſo powerful to make men form and transform themſelves ſooner, into whatever appearance may beſt ſerve their deſigns. There is not any thing ſo hard, which the Ambitious man will not attempt to compaſs either by force or Fraud. 'Twere endleſs to enter upon a detail of Inſtances. Neither is there any man, but may be furniſh'd with ſtore of them, with himſelf or his Friends, and Country-men, yea they offer themſelves to ſuch as never go in queſt of them. It ſhall ſuffice to bring that Example of *Appius*, and the reſt of the *Decemviri* at preſent, they were Selected out from among all the *Romans* as the modeſteſt men, to make and digeſt the *Laws of the XII. Tables*, and they were entruſted with the Government of the *Roman Common-wealth* all the time they ſhou'd be doing that work; Theſe very men, no ſooner reliſh'd the Sweetneſs of Authority and Power, but forgetting their former Modeſty, they broke out into the Commiſſion of all ſorts of crimes; neither could they be induced to lay down their Magiſtracy after their time was out, untill they were conſtrained to do it. For Fortune had Corrupted Nature. I brought

The example of Appius *and the reſt of the* Decemviri.

ano-

another inſtance already of *Dion*, who being poſſeſs'd of the Command of the *Syracuſan* Army, untill their Republick ſhou'd be ſettled and rightly order'd, Laid not down his power, but with his life. So true is that of the Comedian, *Licentia omnes ſumus deteriores, We all degenerate by too much Liberty.* For this new choſen Maſter will try how far he may extend his Power, without being queſtion'd for doing ſo, as School-Boys in their Maſters abſence take up the Whip, and beat their Fellows to make an Experiment what they can do, and how they can do it. In like manner this new King, when he does ſome things amiſs at firſt, and the People do not much Murmur nor Complain, he will encourage himſelf, to go on to farther Commiſſions, and ſtill by ſome new fault or burden try how far his Strength and Power may be extended; For if he finds that the people do not mind one fault, he may think that they will tamely ſuffer more and groſſer ones; So that he who before was a moſt modeſt man, changing his manners with his dignity, becomes moſt wretchedly Wicked. This of *Martial* is well known.

Liberty makes all men worſe.

Caſta nec anti quis cedens Levina Sabinis,
Et quamvis tetrico triſtior ipſa viro,
Dum modo Leucrino modo ſe permittit Averno
Et dum Bajanis ſæpe fovetur aquis,
Incidit in flammas, juvenemque ſecuta, relicto
Conjuge, Penelope venit, abit Helena.

Levina *Chaſt as ancient Sabines were,*
And than her rigid Husband more Severe;
Yet while to various Baths ſhe looſly flies,
And various Waters to her Limbs applies,
Takes fire, Elopes, follows her Gallants lure,
Went out an honeſt Wife, returns a Whore.

Men ſoon degenerate, this is too often the caſe of great Men. It has been ſeen that a man has been altogether ſafe from fear, while guarded by his own Innocency, and the teſtimony of his own good Conſcience, and yet the ſame man was no ſooner advanced to be a King, but he found himſelf haunted with ſuſpicions and fears, inſomuch that neither the ſtrength of his Gates and Bars of iron, nor his military Guards were ſufficient to remove them. The blandiſhments of proſperity make men oft times, tho' inſenſibly, forget and unlearn their former Education and good manners. 'Tis ſaid of *Tiberius* that he was one of the beſt men while in a private ſtate of life, but the worſt and cruelleſt of Princes. In the beginning of his Reign, ſays *Tranquillus*, his behaviour was little more than that of a private man, and he was ſo modeſt that he cou'd not endure any man that gave him the title of Lord, and threatned him if he reproach'd him any more by giving him that compellation; and yet afterward he became a moſt cruel and lewd Tyrant. What part of any Reign was more famous than *Nero's Quinquennium*, what more charming than his Youth, as *Trajan* us'd to ſay? And yet 'tis notorious what a Monſter he became afterwards. And *Horace* who was well acquainted with moral Philoſophy, obſerves,

Dominus.

——Eutrapelus Cuicunque nocere volebat
Veſtimenta dabat pretioſa, beatus enim jam
Cum pulchris tunicis novus ſumet concilia & ſpes,
Dormiet in Lucem, Scorto poſtponet honeſtum
Officium, nummos alienos poſcet, ad unum
Thrax erit, aut molitoris aget mercede Caballum.

When Miſchief ſly Eutrapelus *deſign'd,*
He dreſt the Body to debauch the Mind:
New hopes, new projects ſtreight the Fop aſſum'd
As with his rich and gaudy Feathers plum'd,
Snorts out the day, runs every where on ſcore,
Throws of his honeſt Wife and keeps his Whore:
Till ruin'd thus he takes the Padding trade,
Or for a Penny drives ſome Miller's Jade.

Hope of Power and Ambition ſeldom fail to debauch men, but Riches, Proſperity and Splendour rarely make men better. Inſolence which is near a kin to, or the effect of theſe advantages, hinders our proficiency in Vertue. *Rodericus Sancius* Biſhop of *Valentia*, recites a Story not unfit for this our purpoſe, [a] 'of *Alphonſus* King of *Arragon* being killed, the Nobility of that Kingdom, neglecting *Succeſſion*, had recourſe to *Election* for a New King, and made choice of a certain Nobleman *Peter Tares*, who was generally eſteem'd the beſt Man among them. He no ſooner perceiv'd himſelf ſet on the Royal Throne, but he became ſo Proud that he quite forgot himſelf. For he began to ſlight the Grandees, and to abrogate the ancient Laws of the Country, and cauſed the Gates of his Palace to be ſhut even againſt the Nobility of the Kingdom, who reſorted to it; whereupon the Barons conſulted to drive him from the Kingdom, becauſe as my Author ſays, *being in Honour, he knew it not.* He goes on and cites *Ariſtotles Politicks*, who ſays, That men very lately enrich'd and rais'd to honour, know not well how to bear ſo great fortune, and 'tis not without great danger when private men, who are not accuſtomed to the higher places of Magiſtracy, are rais'd to the Royal dignity, for they are apt to deſpiſe their former Friends, know not their intimate Acquaintances, honour Stage Players, ſlight Noblemen, ſpeak big, aim high, will not yield to Reaſon, but rather endeavour to be above it, at length they become a burthen to their Subjects, and a *Nuyſance* and Enemies to all. This I have taken word for word, from *Sancius*, no contemptible writer of the *Spaniſh* Hiſtory. So this *Peter Tares* being expelled the Kingdom, and the *Arragonians* being ſenſible that they cou'd not bear to be without a King, recall'd *Ramirus* a Prieſt and Monk from his Monaſtery (for the Kingdom was his by the right of Succeſſion) and made him King, who afterwards alſo married a Wife, having obtain'd a Diſpenſation from the Pope. This one Inſtance may ſerve for all, to ſhow us how ſeldom a great fortune and a good mind meet together; and that dignities, to which private men are rais'd, become great enticements to make them rather do ill and baſe things, than to act juſtly and bravely. 'Tis indeed hard, if not next to a miracle, for one ſuddenly rais'd to the higheſt power, and who can do what he pleaſes, to keep within his bounds, and not to offend, after ſo unuſual

[a] Lib. 3. c. 3. Hiſtor. Hiſpan. Rodericus Toletanus lib. 6. cap. 2.

The ſtory of Peter Tares, *who was choſen King of* Arragon.

Sancius. ibid.

unusual, a change of his station. It's certain, the *Canons* called *Sacred*, affirm, that the manners of those who suddenly become rich, are much worse than of those who have been long accustom'd to Riches. Therefore the text says, *Negotiatorem Clericum, & ex inope divitem, & ignobili glorioſum quaſi peſtem fuge.*[a] *Avoid a merchandising Clerk, and one who from Indigency is become Rich, or who from being mean and ignoble is made a great Man, as you wou'd do the plague.* 'Tis very certain then, that in the very *Conventions* or Assemblies for chusing a new King, many things may happen, that may either hinder or quite disappoint the People of the desired success and good issue; so that when they hop'd to have the best and modestest man Elected to govern them, they may stumble on the worst and most wicked, all things in this age are so liable to be effected by wickedness and bribery. And if perhaps the best man be chosen, he will rather be despis'd than reverenc'd by the wicked and ungodly, who will be ready to say that he shou'd have been set over Religious matters, and not over a warlike Nation, and that's born and bred to Arms.

[a] Can. Negotiatorem Clericum distinct. 88.

But some may be ready to tell us by way of Answer, that these Inconveniencies can happen but once; For when a King is chosen the Kingdom may be settled on his Family; so that whilst any of his Posterity remains it will descend to them. Now I Answer, That if this may be truly affirmed, and also that the Kingdom was settled on and confirm'd in the family of *Henry* VII. and his Heirs, by all the Estates of the Kingdom assembled in Parliament, how can there be now any place for a new Election? *Petrus Belluga*[a] a famous Spanish Lawyer, and all eminent men of that Profession, affirm and maintain that there can be no room for *Election*, while there remains one of that Royal Family, to which the Empire or Kingdom was at first made sure, and entail'd. The same *Belluga* tells us, that this was constantly observ'd in the Kingdom of *Tarragon*. And the Empire of *Germany*, never became *Elective*, untill the whole race of *Charles* the Great, fail'd in the Kingdom of *France*. After that indeed *Henry*, Sirnamed the *Bird-Catcher*, was chosen to be Emperour, In like manner, when the Off-Spring of *Garcia Ximenes*, King of *Navarre* fail'd, the people betook themselves to Election, and chose *Enecus Sancius* (who was call'd *Arista* from being swift a foot) to be their King, about the Year of our Lord 853.[b] *Athens* was never without Kingly Government, so long as any remain'd of the race of *Mneſtheus* and *Theſeus*.[c]

An Object.

Answer.

[a] Belluga in speculo veniamus tit. 14. num. 6.

[b] Mariana Lib. 8. De rebus gestis Hispan. cap. 1.

[c] Plut. in Theseo Pausan. in Atticis.

The people are commonly unwilling to change an Elective Monarchy into an Hereditary one.

Moreover shou'd Election be once allow'd the great men and people, they will never quit that priviledge, nor give way afterwards to Succession; as may be observ'd in *Denemark*, *Swedeland*, *Poland* and *Tartary*; In which Kingdoms, tho' most commonly, regard is had of the Kings Children, yet they must owe it to the people, that any of them are Chosen Kings, and not to Blood, or any Right of Succession; that at least their Kings may Remember what power the people has over them. Hope of a Reward will make some Friends to Election, and Desire and Endeavour to raise a Neighbouring Family, or a Family to which they are related, will prompt others, some from a Prospect, that they, or theirs some time or other, may attain this Honour; And all others will be Spurr'd on, from a desire of Innovations and frequent changes: They may be apt to say, that what has been once done, has right for it, that the former King Reign'd on these terms, and they will not fail to impose and continue them for ever after. I shall

The firſt Inſtitution of the Mammalucks.

I ſhall only bring one Inſtance, from which you eaſily may make an eſtimate of all others, of this Nature. *Melechſala Sultan* of *Ægypt*, perceiving the minds of the Natives of that Kingdom Soft and Cowardly, and their Bodies weak and effeminate, order'd that Male Children ſhou'd be brought by his own people from all the Countries about *Pontus* and the the *Caſpian* Sea, which were inhabited by the *Scythians* and the fierceſt Nations; 'Twas no hard matter to do this, for the needy Parents make no Scruple to ſell their own Children, and even at this day, they look out for Cuſtomers to buy them. Theſe Boys being brought to the Sultan, were thoroughly well inſtructed in Warlike Exerciſes, by Fencing Maſters and others, who were appointed to teach them, and train them up in whatever belonged to the Art of War. Out of them the Sultan Liſted 30000 when they came of Age, for the firſt rank of his Horſemen, and twice ſo many of a ſecond Order of Horſe-men. The Sultans of *Ægypt* made uſe of this Army, which was very Courageous and faithfull to them, in their Wars; So that their Neighbours reckon'd them invincible, and truly they were ſo, untill the *Turks* found means to corrupt them by Gifts and Bribes. They were called *Mammalucks*, who at laſt knowing well their own ſtrength, and that the ſtrength of the Kingdom lay in them, there being no Souldiers in all that Country beſides themſelves, grew uneaſy to think that they ſhou'd be ſubject to the effeminate *Ægyptians*; *Melechſala* being killed by *Turquemenius*, they transferr'd the Kingdom to him, on that condition, that for the future the King ſhou'd be choſen only from among themſelves. This continued for ſome time with great Succeſs. But *Turquemenius*, who Laid this Scheme was diſpatch'd by *Clothus* a *Mammaluck*, to appeaſe the Ghoſt of *Melechſala*, and he again by his Succeſſor, *Bendocaderus*, neither did he Survive him long, being Poiſon'd, till at laſt *Caythbeius* got the Dignity of Sultan. There was one of them who being choſen Sultan, and having amaſs'd great Riches, was gall'd to think that after his Death, his Children ſhould be forc'd to live under the Government of his Succeſſor, and as other Private men do, wherefore beſtowing all his Riches profuſely on the *Mammalucks*, he ſo engag'd them to himſelf that he gain'd a promiſe of them that his Son *Mahumet* ſhou'd Reign after him; this they alſo perform'd, but repented of it afterwards, and the other *Mammalucks* not getting the Donative, which was uſual at the Death of their King, became enraged, and conſpired the Death of *Mahumet*. So he, and all the Authors and Abettors of his Succeſſion, being kill'd by *Circaſſus*, *Election* was again Reſtor'd. But ſo that the laſt always kill'd the former King. No care was taken to advance the beſt Warriour, or the beſt man to that Poſt, or him that was moſt capable to Govern, or Adminiſtrate Juſtice to the Kingdom; but only the Richeſt man, neither were they contented with a ſimple Donative, as formerly, but they order'd all his Eſtate and Subſtance, who was to be choſen Sultan, to be Diſtributed among them; and if they diſcover'd, that he had conceal'd any part of his Riches, he inevitably loſt both his Kingdom and Life. From that time, the Richeſt man was preferr'd to be Sultan. Yea the wickedneſs of the *Mammalucks* came to ſuch a height that they kill'd many of their Sultans, for no other cauſe, but that they might have frequent Elections and Donatives, neither did they ſuffer the privilege of Election to be taken out of their hands, untill their Government was deſtroy'd, which happen'd in the laſt Century *Anno Dom.* 1517. *Tomumbey* their

Prætorianorum Equitum.

Semiviris.

Caythbeyus.

Tomumbey killed.

their last Sultan being taken and put to Death by *Selim* 1st. Emperour of the *Turks*, the victory over the *Mammulucks* was obtain'd more by the treachery of their chief Commanders, who were brib'd by *Selim*, than by the Valour and Puissance of the *Turks*. *Bodinus* tells us that in *Gerbes* an Island on the coast of *Africk*, the Kingdom being Elective, Seven Kings Perish'd within the space of Fifteen Years. [a] And in the Kingdom of *Granada* whilst Election prevailed there, Fifteen Kings were destroy'd in the space of one and twenty years. 'Tis well known that *Aymonius* writes that it became customary, among the *Goths* in *Spain*, to kill their King, whenever they were displeas'd with him. But I expect to be told, that such things were only practis'd by *Barbarians*, but not in civiliz'd Nations. To this I answer, that it is certain from History, that there have been many such instances at *Constantinople* the Seat of the Eastern Empire. And at *Rome* the Seat of the Papacy, where Popes have been Poison'd, at the Instigation of such as long'd for their Death, in hopes to Succeed them. Some times the Cardinals, who have the right to elect a new Pope, have conniv'd at horrid crimes very tamely, to make a good Market at the next Election; they pleas'd and hugg'd themselves with frequent Elections, being assur'd to have their presents often renewed. These then are the genuine and happy fruits and advantages, which are to be look'd for, from these *Notable Elective Conventions* or *Election* it self, in which the contending parties, are ever by the Ears, endeavouring all they can to gain their designs, by the basest Arts and most abominable practices, such as Corruption by Bribes, Gifts, Donatives, Baseness, fair Promises, Factions, Tumults, Deceit, Treachery, Tricks and Shams. So that it is truly appliable to these Elections, what some learn'd men have affirm'd of General Councils, for Ecclesiastical Affairs; that tho they were instituted for settling the Peace and Quiet of the Church, they seldom attain'd that end, but were commonly observ'd to bring along with them Tragical disorders, changes and confusions in Kingdoms, as well as in mens minds. My next business shall be to enquire into the Conveniences, as well as Mischiefs, which usually follow this Election of a new King, and so to compare them with each other.

[a] Lib. 6. de Republica.

Rod. Sanc. lib. 2. Cap. 10. & lib. 4. cap. 35.

Objection Answer'd.

Ex egregijs hisComitijs electivis.

CHAP. VIII.

Concerning the Inconveniencies, which follow an Election after it's over.

NO sooner are the *great Conventions* over and a new King chosen, but the People think of returning home, yet sure not all of them alike pleas'd with what has been done in them. For some will say that one might have been chosen more for the interest and benefit of the Common-wealth, another that a better man and more accomplish'd ought to have been preferr'd to him, a third set of them may be exasperated and complain grievously, That the *rights of Succession* have been violated, and which is a wrong not to be suffer'd in private Families, to debar Children from Succeeding to their Ancestors, and Disinherit them;

Jura Successionis.

how can this be done, they will ſay, to Children even of a Royal extract? This is an ill precedent and of fatal influence, which many Families may afterward be ſenſible of, to their coſt. For if this be done to the Heirs of the Royal Family, why may it not alſo take place in private Families? They can have no better right to ſucceed by Birth, than the Royal progeny have to ſucceed to, and inherit the Kingdom, and the true Heirs may be as well and as juſtly excluded from their paternal Eſtates and Inheritance, by their own Family and Domeſticks, as the Heir of the Crown by his Subjects. Others will take it grievouſly and be in great concern, that their enemy is made King, and has got power, to his former Will and Inclinations, to miſchieve them. Others will find ſomething elſe to quarrel at in him, and as they obſerve the inclination of the people to be, will form Parties and run into Factions.

But ſuppoſing the new choſen King to be a good man, he cannot after he finds himſelf once ſettled in the Kingdom, but reckon himſelf obliged in the firſt place to perform the Promiſes he has made them, to whoſe aſſiſtance he owes his advancement. 'Tis more than probable that he has laid out and beſtow'd all his own Eſtate, while he was endeavouring to be raiſed to the Throne, and therefore he muſt now drain the publick Treaſury, to pay his Debt and clear the obligations he is under. 'Tis eaſy to prove, by many examples that this has been the practice of Elected Kings; I ſhall only give my Reader a ſample of them, *viz.* *William* the *Conquerour*, his Son *Henry* the firſt, *Charles* IV. Emperour of *Germany*, and *Henry* King of *Caſtile*.

Hugh Capet *and King* Stephen *are put into this number afterwards by the Author.*

Of William *the Conquerour.*

When *William* of *Normandy* had a deſign upon *England*, but had not Money enough for raiſing and paying Souldiers; and yet nothing cou'd be attempted againſt *England*, without a ſtrong Army that he might entice ſome Neighbouring Princes and Souldiers to his aſſiſtance, he loaded them all with great Promiſes, that as ſoon as he ſhou'd have Conquered *England*, he wou'd abundantly reward all of them for their Services to him, with Lands, Towns and Countries, which he promis'd to diſtribute among them, according as every man ſhou'd deſerve. How eaſily are men catched with ſuch Baits? They all agree to his terms. Having invaded *England* and obtain'd a notable Victory he entred *London*, where he was Crown'd, and after that his firſt care was to make good his Promiſes to them, who had effectually aſſiſted and enabled him to compaſs his deſign. Wherefore he ſpar'd none of the *Engliſh* from whom any money cou'd be extorted. He deſpoil'd the Nobility of their Fortunes, the Gentlemen of their Mannors and Freeholds, the Citizens and all other people of their Money and Subſtance, and laſtly the Clergy of their Wealth, and robb'd the Churches of their rich and valuable Ornaments and Gifts, and all this he did to requite and gratifie his own truſty *Normans*.

Of Henry I.

Henry I. diſtributed among the Nobility all his Father's treaſure, which he had amaſs'd together ſometime before his death, that he might be declar'd ſucceſſor to the Crown, and to his Brother *William Rufus*, and that *Robert* eldeſt Son to the *Conqueror* and their eldeſt Brother, might be paſſed by and rejected.

Of Charles IV. *Emperour.*

Charles IV. Emperour, beſides all his own Eſtate and Riches which he poſſeſſed, was indebted to the Electors in a Summ of 100000 Crowns for chuſing his Son *Venceſlaus* to be King of the *Romans*, and having no way to raiſe this Money to pay them, he beſtow'd on them all the rights

and

and prerogatives which of right appertain'd to the Imperial dignity, and are call'd the *Regalia*, (that's the term in Law,) to wit, a right to coin Money, to create or make Magiſtrates, to require Tributes and Cuſtoms, and other great Privileges. He ſold ſome Towns, which to this day are call'd *Imperial* Towns, becauſe free from the Empire, and left to be govern'd by themſelves, only acknowledging the Emperour for their Superiour. The Empire never receiv'd ſuch a deadly wound, nor was ſo much impair'd as to it's Power and Riches, as under this Emperour. For what he alienated from the Empire, was twice ſo much, as what remain d to it. So that at this day there remains ſcarce a Shadow of that moſt Flouriſhing and Opulent Empire, and was not its dignity in ſome meaſure ſupported by the private Riches and Inheritance of the *Auſtrian* family, and the Taxes that are laid on, for defraying the Expences of the Wars, willingly pay'd, we ſhou'd not ſee ſo much as the appearance of an Empire, and the moſt Cruel *Turks* had no doubt before this time enter'd into the innermoſt bowels of *Germany*.

Hugh Capet.

Hugh Capet after he had expell'd the poſterity of *Charles* the *Great* from the Kingdom of *France*, ſet up for no other Right or Title to that Kingdom, but as one choſen to be King by the Nobility and People tho in *France* the Kingdom deſcends by Birth and not by Election. For indeed *Capet* cou'd not pretend to claim it, by any Right of Blood or Deſcent; yet having once got poſſeſſion of the Kingdom he bethinks him of ſecuring it to himſelf and his heirs after him, and for obtaining his deſigns he makes all Offices and Fiefs hereditary, which formerly had been only temporary, granted *Durante bene Placito*, or for a few years, or at moſt for a life time; nay he parcell'd out the far greater part of the Crown Lands, and publick Revenues of *France*, among them who ſupported his unjuſt poſſeſſion, as well knowing that they who ſhar'd ſo plentifully of the Spoils made of the publick, wou'd never conſent or give way to the reſtoring the rightful King, who either would, or at leaſt could oblige them to Reſtitution.

Henry *King of* Caſtile.

Henry King of *Caſtile* having murder'd his Brother and Soveraign, to aſcertain the Kingdom to himſelf, which he had got by ſuch barbarous and unnatural crimes, ſo profuſely ſquander'd away the inheritance of the Crown among the Grandees, that the remainder was not ſufficient to ſupport the Royal dignity. [a]

[a] Rod. Sanc. cap. 19. part. 3. hiſtor.

Stephen *King of* England.

Stephen King of *England* took the ſame courſe, for to ſecure to himſelf and to his Children after him the Kingdom, which he unjuſtly poſſeſs'd, he diſpoſed of a great part of the Crown Lands among his Friends, to keep them firm to him and to his Intereſt.. So that when the true Heir *Henry* the Second, call'd *Henry Fitz Empreſs* came to the Throne, he found his income very ſmall, and endeavouring to retrieve the Inheritance of the Crown, he ſo diſguſted his Subjects, that had they had one to Head them, they would certainly have rebelled, and nothing hinder'd them from it, but the death of *Euſtachius*, the Son of King *Stephen*.

Whence I infer that nothing is to be expected from this New Election, but the ruine and diſſolution of that Government, to which a new King is choſen contrary to the Laws and ancient cuſtoms of the Kingdom; as is to be ſeen at this day in the *German* Empire, and long obſervation has verified this truth in the papacy. Theſe Elections are frequently accompanied with Factions, and while it is conteſted by oppoſite Parties, which of the two that are choſen by their reſpective adherents, ſhall be preferr'd,

the

the riches of the State are extreamly diminiſhed. Theſe are the Fruits of Mercenary Elections or rather of putting the Kingſhip to Sale. For he who is Elected King, muſt either before or after his Election, ſtrip himſelf of all his own effects, to ſatisfie his Authors, to whom he owes his being King; as well knowing that unleſs he do this, his reign will be but of a ſhort continuance. We have ſeen a new Pope in the firſt and ſecond year of his Pontificate, conſume all he cou'd get on the Cardinals, who choſe him, in purſuance of his bargain, and the promiſes he had made them. So that his Friends and Relations cou'd expect nothing untill he had firſt cleared Scores with his Electors. He lays out himſelf afterwards in behalf of his Friends, and to raiſe his Children and Nephews; ſo that if he cou'd alienate the Patrimony and Goods of the Church (which he cannot do without the conſent of the Cardinals, and ſome ſay, that he cannot do it tho' they ſhou'd conſent) there had remain'd nothing before this time, but ſuch a meer ſhadow of the Patrimony of the *Roman See* as there is of the Roman Empire. And yet it cannot be denyed, but the riches of the Eccleſiaſtical State are much impair'd, all the *Interdictions*, forbidding the alienation of *Peter's Patrimony*, notwithſtanding. *Paul* III. having torn away from the Patrimony of the *Roman Church*, *Parma* and *Placentia*, beſtow'd them with the dignity and title of Duke on his Son *Peter Lovis Farneſe*. The hiſtorians of this preſent Age tell us by what Arts this was brought to paſs. His Predeceſſours had alſo given away *Ferrara* from the *Apoſtolick See*, ſo that nothing is ſo Sacred and ſo ſolemnly devoted to the Church, but its ſettlement may be eluded by Craftyneſs and baſe Arts. Thus in Elective Kingdoms, all things lie open to Rapine and Pillaging, inſomuch that whatever appertain'd to the Publick, and had been ſet apart, for maintaining the State and Grandeur of the Government, in a little time comes to be the property of private men. For an Elected King, well knowing that his Reign or Government is not to laſt long, and that the Kingdom is not to deſcend to his Heirs, will be ſure to *make hay while the Sun ſhines*, ſcrape together and amaſs all the Riches he can by Fraud and Deceit; he can beſtow every thing with the conſent of the Officers of the State, and get it confirm'd by the Eſtates of the Kingdom, if he bribes the leading men; and as the Emperour ſays, *Naturaliter enim quod commune eſt negligitur, propria curantur, ut nihil ſe habere putet qui totum non habeat.*[a] For it is natural to men to neglect the Publick, and to mind themſelves and their own concerns to that degree, that ſome men think, they have nothing unleſs they engroſs all to themſelves. From what I have hinted at, even a very ſhort ſighted man may eaſily perceive that the overthrow of the Kingdom or Empire will be the conſequence of this Election. How the Kingdoms of *Poland* and *Danemark* are preſerv'd and continue to flouriſh to this day, ſhall be afterwards accounted for.

Pope Paul III.

[a] L. 2. §. quando & quibus quarta pars bonorum debetur.

Poland is now much impair'd and miſerably divided, and Danemark *is an Hereditary Kingdom.*

But what if there are ſome men whom this new choſen King cannot at preſent reward for the great Services done him, or who upon the account of their great Merits, have hoped for much greater things than they have receiv'd. At this doubtleſs great offence will be taken and the King will catch at all occaſions to reſent their troubleſome complaints, even to the deſtruction and overthrow of the other party. For 'tis the common practice of men, when unable to make commenſurate returns, for obligations laid on them, to ſuppreſs and obliterate the memory of

thoſe

those favours if they can, and to shun the sight of their Benefactor as they wou'd the sight of a Ghost, because it upbraids either their penury or Ingratitude. For benefits and good Offices are acceptable, as long as the person oblig'd can easily return them; but when they come to exceed by much his Ability, then they create Hatred instead of good will; neither is the memory of any thing sooner forgotten than of favours receiv'd. I shall give the Reader a few instances to this purpose.

The ingratitude of Joash.

Joash, tho he was preserv'd by the high Priest *Jehojada*'s care alone, from being murder'd by the bloody hands of wicked *Athaliah*, and by him set on the Throne of the Kingdom, yet he Commanded *Zechariah* his Son a Prophet of the Lord, to be Stoned to death, being unmindful of the Kindness his Father had shew'd him. I shall add two Instances more to this purpose, and those of no very old date. *Charles* V. was made Emperour of *Germany*, by the Suffrage and Assistance of *Frederick* Duke and Elector of *Saxony*, who was a Wise man, yet before the end of this Emperour's reign, he ruin'd *John Frederick* his Brother *John*'s Son and Successor, and all his Posterity, and depriv'd them of their Electoral dignity. The other instance shall be in *Henry* VII. King of *England*, a most Wise Prince, and I hope our Neighbours will Pardon me if I take Notice of one Blemish in him, who had so many great Perfections and Virtues. At the Battel of *Bosworth*, where this *Henry* VII. depriv'd that Usurper and Bloody Tyrant *Richard* III. of the Kingdom and of his Life, when *Henry* himself was in the utmost danger of being overcome and Slain, *William Stanley* succouring him in that extremity, with three Thousand Armed men, tho' before that he stood by as a Spectator between the two Armies, he not only renewed the Battel, but also killed *Richard*, when he was almost Victor. This was the most important Service, as *Polydore Virgil* says, that has been done to any man in any Age, for which *Henry* bestow'd on him extraordinary gifts; which nevertheless he thought disproportionate to his Merits, or *Henry* thinking that he cou'd not clear his Obligations to him, Rancour and Malice possess'd both their minds to that degree, that *Stanley* at length lost his Head. I have brought these Instances, for these Electors to ruminate on, and all such as desire above all things, to Alter and Subvert the present Constitution and Government of the Kingdom, and of an Hereditary to make an Elective Monarchy, that they may be convinc'd that such Innovations, may happen not only to fall short of their expectations, but also may be of very Fatal consequence to themselves and Families, and that at last, they may come to read their Sin in their Punishment, when God who is a most just Judge, takes Vengeance on them, for violating the Fundamental Constitution of the Kingdom. For whosoever lays greater obligations on a Prince, than he is able to repay, shou'd resolve to retire out of the way, or to part with his Life; and he ought to consider in time, either to prevent or encounter his Fate. None are more Jealous than new chosen Kings, nothing is more uncertain than their Favour. Moreover they are forced by Exactions to Squeeze the people, and sometimes to condemn men for forged Crimes, to the loss of their Lives and Fortunes, before they can be able to requite all their Friends for their good Services in promoting them.

of Charles V. *to the Duke of* Saxony.

of Henry VII.

Beneficium poſt homines natos maximum.

Of an Elected King's partiality to his Children and Kindred.

After this new Elected King has satisfied those who favour'd his Promotion, or thinks that he has sufficently Rewarded them, his next care will be, for his Family and Children, if he have any; they must be rais'd to Fortunes and Dignified with Honours. For knowing that the Kingdom

deſcends not to his Off-ſpring, he might be thought ungrateful both to God and Man, unleſs he made ſuch Proviſions for them, as it may be known afterward that they derive from him who once was King. So then if he be entruſted with the Adminiſtration of the publick Revenue, (without which he deſerves not the Title of King) he will beſtow a great part of it, on his Kindred, being aſſured what will enſue after his Death, according to that of *Euripides* ἐμοῦ θανόντος γαῖα μιχθήτω πυρί after my Death a general confuſion will enſue. We ſhall touch gently ſome few more examples to confirm this Truth.

The Emperours Rodolphus.

The Emperour *Rodolphus* to the great detriment of the Imperial Revenue, made over three Imperial Cities to his Son, which being then taken from the Empire, were never annex'd to it again.

Robert.

The Emperour *Robert* ſold off from the Empire, for the Price only of 6000 Florins, to the *Florentins*,

Volaterrani, Aretium, Piſtorium.

Volterra, *Arezzo* and *Piſtoia*, and by ſo doing leſſen'd the Imperial Revenue.

Henry V.

Genova made ſuch a Bargain, but tis uncertain at what rate. *Lucca* pay'd 12000 Florins. *Henry* V. had 10000 from *Siena*, for their Freedom. And

Charles IV.

Gamburtius purchas'd *Piſa* for himſelf from *Charles* IV. for 12000 Florins.

Frederick. I.

Fredrick I. for the benefit of his Family, alienated *Norimberg* for a Sum of money, which has been a free Town ever ſince they payed him the

Otho III.

Price of their Freedom. *Otho* III. ſold *Iſne*, and

Lewis *the Bavarian.*

Lewis the *Bavarian Egra*.

Henry VI.

So *Minda*, *Munſter*, *Magdeburgh*, great Cities were ſold by other Emperours to their own Citizens. *Henry* VI. gave the whole Kingdom of *Arles*, and with it the *Rights of Majeſty*, to *Philip* of *Valois*, for two Thouſand pound weight of Silver.

Otho IV.

The Church of *Rome* purchaſed *Piſaurum*, *Ancona*, *Foſſombrone*, and *Anſanum* from *Otho* IV.

Henry IV. *ſold the Imperial Revenue piece-meal.*

Henry IV. put to Sale every thing belonging to the Empire, that he cou'd poſſibly diſpoſe of, to enrich his own Family. And if a new Pope, lives a year or two after Payment made to the Cardinals who choſe him, according to their Bargain, his next buſineſs in courſe will be, to take care of his Kindred, and do all he can to enrich

The Elected King's partiality in preferring his kindred to all places of truſt, honour and advantage.

them, as I remarkt before of *Paul* III. Finally this new Elected King, will never ceaſe to advance his Kindred and Friends right or wrong, and will entruſt them with the Garriſons, Forts, and ſtrongeſt Caſtles of the Kingdom, which they will never part with, but on Advantageous terms; He will Load them with Offices and Dignities, and no man can expect any Poſt of Honour or Advantage, or be made Miniſters or Officers of State until all his own Relations and Friends, who are capable to bear any publick Office, are provided for. Laſtly he will pervert all the Laws both of God and man, that the memory of his greatneſs may deſcend to Poſterity, or that he may make his Relations Powerful, whoſe aſſiſtance he muſt rely on, at a Pinch. And if he has form'd deſigns to make the Government continue in his Family, he will be careful to have his Heir Crown'd in his own life time, or at leaſt nominated, and here again muſt be new Bribes, Gifts and baſe Bargains, to get this effected; for the Mercenary Suffrages of the Electors muſt be purchas'd at any rate.

His reſentments for the oppoſition made to his Election.

Having rewarded all his Friends, by whoſe Suffrages and Intereſt this new King got the Royal Dignity, his mind will be heated with Anger, againſt his Competitors, who were ſo bold as to oppoſe his advancement, and ſtrove for that Honour which he has attained; from his Indignation at them, ſprings a deſire of Revenge, becauſe their oppoſition put him to vaſt expences; and he will be jealous that they may practice or attempt ſomething againſt him, for ſome of them ſtood fair to have had

had the Election carried in their favour, or for ſome one of them; hence he will endeavour to repair his loſſes and ſatisfie his Creditors out of their Eſtates and Effects, or put them from their places, that they may not be able to hurt him; For he may ſuppoſe that they will renew their attempts againſt him. Time makes them more cautious and cunning, and their repulſe at the great *meeting* or *Convention* for *Election* will provoke them; ſuch an indignity may rankle them more, and therefore feign'd crimes muſt be laid to their charge, where real ones are wanting, and ſhou'd they, when arraign'd, withdraw themſelves and not ſtand their Trial, as remembring their paſt offences, or fearing the new Kings diſpleaſure and ſevere Reſentments, then nothing but Civil Wars and a miſerable embroil'd Kingdom is to be looked for. And if the King proſpers and carries all before him, ſo as to be glutted whether with their Blood or Eſtates, Flight, Baniſhment or Proſcription, then he will alſo fall on them who were Friends to his Enemies, and treat them after the ſame manner; and knowing the friendſhip they have for them, who withdrew to avoid the ſtorm, he will omit no occaſion to get at their Eſtates, and perhaps their Lives, that they may be made uncapable of ſerving his enemies or diſturbing himſelf. *Ordonius* II. King of *Spain* who before he was made King was reckon'd a man of extraordinary Temper and Modeſty, yet after his Exaltation let the reins ſo looſe to his private Luſts and Revenge, that he deſtroy'd moſt of the chief Nobility, and had he lived a while longer, he had infallibly ruined himſelf and the Kingdom. *Rodericus Sancius* [a] the Hiſtorian gives the reaſon of it, for, ſays he, *a great fortune corrupts Nature, and few men have learn'd to bear with moderation great proſperity, and unlimited power is a ſort of enticement, exciting them to fulfill their irregular Luſts and Paſſions, ſuch chiefly as Anger, Hatred Revenge, and above them all inſatiable Covetouſneſs.* In the mean time they who have been rejected at the great *Meeting*, or Aſſembly for Election will be ſtill afraid of him, who is choſen, having no doubt incurr'd his diſpleaſure for oppoſing him, and therefore to ſecure themſelves they will leave no Stone unturned, nothing unattempted, to dethrone him, and for putting another in his Place. The Malecontents begin firſt with private Cabals, to form their party; ſome exaſperated and vexed at the heart with their former diſappointment in the paſt meetings of the Electors, will by all means endeavour the removal of all thoſe obſtacles which occaſion'd it; they will contract new friendſhips, and ſtrengthen them with new Alliances, Confederacies and Bonds. In fine if there be more pretenders to the Royal Dignity, they will rather chuſe to let one of themſelves have it, (the reſt giving up their claims to him) than that he who is already choſen ſhou'd be ſuffer'd to Reign, becauſe they know him to be their Enemy, and are in continual dread of him. They will watch their opportunity, and look out for all occaſions of complaint, and if any Errour or eſcape be committed in the Adminiſtration of the Government, to afford matter for grievances, they will magnify it, to ſtir up the people againſt him, and to put all things in confuſion. In the mean while, they will pretend mightily to be for Peace and Quiet, until their Faction grows ſtrong, and be firmly united and knit together.

The publick ſafety and neceſſity will be pretended for ſuch proceedings.

Ordonius II. *Inſtanc'd.*

[a] Cap. 14. tertiæ partis hiſtoriæ.

'Tis to no purpoſe to ſay, that the Authoritative Declaration of the Eſtates of the Kingdom aſſembled in Parliament, is ſufficient to keep the people quiet, and prevent Commotions and Rebellions; for if we look back to the beginning of *Henry* IV of *England* his Reign, we ſhall find the Earls *Hun-*

The choice and declaration of the Eſtates is often made void by a ſubſequent deed.

Henry IV. *Inſtanced.* Holinſhed *in the life of* Henry IV. *Huntington*, *Kent*, *Rutland*, *Salisbury* and many more, upon ſome offence, taken at him, conſpiring to Dethrone him, tho' he had been choſen and Re-cogniz'd by the Parliament, at which themſelves had been preſent and given their conſent.

The family of York. Richard *Prorex.* *Richard* Duke of *York* was made *Prorex* while *Henry* VI. was yet alive, but being afterwards vanquiſh'd in Battel he loſt his Head, and the Right of Succeſſion, which the Parliament had Eſtabliſh'd in his Family was annull'd.

Edward IV. Afterwards his Son *Edward* chiefly by the Aſſiſtance of the Earl of *Warwick* was by all the States of the *Realm*, aſſembled in Parliament made King, yet he no ſooner diſpleas'd that *Earl* by Marrying a Wife without his conſent, but he was Beaten and Proſcribed as a Betrayer of the Kingdom, but upon his return, defeating this Earl of *Warwick* he was again ſet on the Throne, all theſe inconſiſtent things were done by the Parliament of *England*, and ratified by the Suffrages of all the Members of it, and yet they could not hinder Armed Force, nor Secure themſelves againſt it.

Henry VII. *Henry* VII. was proſcribed with the conſent of the Parliament, but afterwards when Victorious, he was own'd by the ſame Parliament, and the Kingdom confirm'd to him and to his family. *Frederick* of *Auſtria* and *Lewis* of *Bavaria*, warred moſt bloodily againſt one another full eight years, to the imminent ruine of all *Germany*, and yet both of them were choſen by the Eſtates of *Germany* or *Great Diet* of the Empire.

Nine Emperours kill'd. Nine Elected Emperours of *Germany*, within the ſpace of 300 years, were killed fighting againſt one another, to wit *William* of *Batavia*, *Rodolph*, *Albert*, *Henry* VII. *Frederick* II. *Lewis* of *Bavaria*, *Charles*, Nephew to *Henry*, and which is yet more ſhameful and unworthy to

Henry IV. *depoſed for diſpleaſing the Pope.* be remembred *Henry* IV. having diſpleas'd the Pope, was depos'd by him, and the Electors commanded to chuſe another Emperour in his place under the pain of Excommunication. And by that Pope the Emperours Subjects were abſolved from their allegiance they had ſworn to him. At firſt they choſe *Rodolphus* Duke of *Suabia*, and afterwards *Henry* his own Son to be Emperour, who purſued his Father with ſo cruel a War, that having taken him Priſoner at *Leige* he cauſed him to die through Hunger and Grief. This is that Emperour *Henry* who fought ſixty two battels, which not only exceeded the number of battels fought by *M. Marcellus*, but even by the Dictator *Julius Cæſar* himſelf, and yet after all, he was forc'd to end his life moſt Tragically.

Henry V. *his parricide is to be imputed to Election and to the Electors.* Now to whom is this Parricide to be imputed but to Election and to the Electors, who arm'd the Son againſt the Father, whom they had formerly choſen, to whom they had ſworn fealty, and whom they afterwards dethroned? They were the Authors of this unnatural crime. Thus have I ſhewn what are the genuine conſequences of *Elections* or *Conventions* for making them, that all men who aſſume to themſelves a Power of taking away any mans undoubted Right, and more eſpecially of them who have a Title even by Succeſſion, may take notice of them. In the mean time they will not be wanting to themſelves, but take all opportunities to make innovations, enter into, and cultivate foreign alliances, reconcile and engage to their party Domeſtick Factions, and begin a new web. And if they be not able quite to unſettle or embroil the Common-wealth, they will not give over their attempts notwithſtanding, by which after they have avenged themſelves on their enemies, the Common-wealth or Kingdom ſhall be almoſt Shipwrackt. The *Heraclidan* Family had

Reign'd

Reign'd for many Ages over the *Lacedæmonians*. But King *Cleomenes* being kill'd in *Ægypt*, *Lycurgus* an upstart Mushroom, having purchas'd the suffrages of the people with his Money, was made their King by the people, *Chylon* who was of the blood Royal, being poor, and not able to make good his Claim by bribing, was so Gall'd at so great an indignity, and injustice done to his Pedigree, that he kill'd all the Magistrates who had chosen *Lycurgus*, tho' he was not able to dispossess him of the Kingdom. 'Tis like one so injured may avenge himself, as *Julian* Earl of *Ceuta* did of King *Roderick* for violating his Daughter; he brought in the Moors upon him into *Spain*, which ruin'd the Kingdom of the *Goths* there, and was the inlet to the over-throw of *Spain*, by the *Arabians*. All the Reign of this new King, nothing is to be seen but Fears, Frauds, Jealousies, Broils and perhaps intestine Wars, the Government tottering with its Novelty, can hardly be settled; the miserable people can enjoy no Quiet, nor leisure to look after their own private Affairs. Now these are the great advantages and Conveniencies which are consequent to the Election of a new King.

The death of Cleomenes *put an end to the* Heraclidan *Kingdom at* Sparta.

The Earl of Ceuta's *resentment.*

But seeing there is no such true Philosophy, no such Rules of Morality, no such sound precepts of Wisdom and Policy, as are contain'd in the holy Scriptures, and in the Sacred History; wherein we may behold as in a Glass the Lives of men, and the Fate of Kingdoms, and St. *Paul* says, *Whatever things were written afore times, were written for our Learning*. We ought therefore to take our Instruction from those most pure Fountains of Truth. The Children of *Israel*, had two Kingdoms establish'd among them, the one was the Kingdom of *Judah*, and the other that of the Ten Tribes, which was called the Kingdom of *Israel*, the first was Establish'd in *David* and his Family, by a constant Succession, according to Gods faithful Oath to *David*, and the Lord calls this Succession in the Kingdom a Lamp and Light in *Israel*. *I have ordain'd a Lamp for my Anointed*. Now here after the Fathers death, his Son Reigned in his room, so that the Kingdom was seldom disquieted with Tumults, the people enjoy'd Peace and Quiet, the Kingdom prosper'd, and was enlarged dayly, until the Destruction of *Jerusalem* by *Nabuchadnezzar*, and the *Babylonish Captivity*; a punishment inflicted on them by the just Judgment of God, for their Idolatry and their other grievous Sins. But in the Kingdom of *Israel*, we have a quite different Scene. The deceas'd Kings were seldom succeeded by their Sons, Kings were set over them by Election, and the Conspiracies of the people, and by such means the Kingdom was transferr'd from one Family to another, and (so little, if any regard, being had to Succession) Seditions, Murders, Rapines and the horridest Crimes raged in that State. *Jeroboam* was the first that was chosen King *by the People*, but *Baasha* having conspired against his Master, and being made King *by the People*, destroy'd all the Posterity of *Jeroboam*. *Zimri*, having kill'd *Elam*, was created King *by the People*, and was kill'd on the seventh day after, and *Omri* was chosen King *by all the People* as the Text expresseth it, then *Tibni*, and the people were divided into two parts, *as is usual in popular Elections, half of them follow'd* Tibni, and *t'other* Omri, to make him King. *Jehu* destroy'd all the seed Royal, and house of *Ahab*, and became King himself. King *Zacharias* was kill'd by *Shallum*, and after one months Reign, *Shallum* by *Menahem* who was King of *Israel*, and his Son *Pekaiah* was kill'd by *Pekah who reign'd in his room*. So during these Reigns, the people were never restrain'd from Butchering one another. These Kings were not, ἀναίμακτοι or *unbloody*, neither were they

Rom. 15. 4.

Two Kingdoms among the Israelites, *one Elective and the other Successory.*

Psal. 132. 17.
1 King. xi. 36.

2 Chron. 26. 14, 15, 16, 17.

they remov'd without Blood, and hard Labour. All that time there was no end of Ranſacking and Slaughtering the people. And after the *Babyloniſh* Captivity *Ariſtobulus* II. poſſeſt himſelf of the Kingdom of *Judah* and of the Prieſtood, which by Primogeniture was the Right of *Hyrcanus*, whom he overcame and forced to lead a private Life. But what was the event? He with his Sons *Alexander* and *Antigonus*, being made Priſoners by *Pompey*, was ſent to *Rome*, and *Judea* became Tributary to the *Romans*.

The right of Succeſſion allow'd by moſt Nations; and its violation an evidence of the peoples injuſtice and violence.

Certainly the Right and Privilege of Succeſſion in Kingdoms, has obtain'd and been allow'd of, by moſt Nations; but Election by very few in comparison. And if perhaps people, neglecting the Right of Succeſſion, and the Lawful Heir, have ſometimes choſen another to be their King, ſuch Facts are ſo far from proving their rightful Power to do them, or to juſtifie their deeds, that on the contrary, they are Evidences upon record, of the peoples unjuſtice and ungovernable Violence. Neither can ſuch wicked Practices hurt the Right of the true Heir, tho' they never fail to confound the *State*, and turn all things *Topſy-turvy*; until at laſt every corner of that wicked Nation is fill'd with Blood, and the enormous National Crime comes to be expiated by the Deſtruction and over-throw of the Kingdom. In ſo much, that in no Country, Impunity for the greateſt Villainies, Murders, Devaſtations, Frauds and Oppreſſions of the people prevail ſo, without the Execution of condign Puniſhments on the execrable Authors, as where Election takes place.

CHAP. IX.

A King by Election compared with a King who Inherits his Kingdom by the Right of Succeſſion.

HAving in the preceeding Chapters made appear, that many and grievous inconveniencies and miſchiefs attend Elective Monarchies, I come now to conſider, on the other hand, whether Succeſſion in Kingdoms, or the *Jus Succeſſorium* be liable to evils equal to them either for number or quality. And this will be beſt done by comparing Succeſſion and Election together.

Succeſſion cannot bring People under the imputation of ingratitude and perfidiouſneſs; as every election in an Hereditary Monarchy does.

And firſt, the People who honour the memory of their deceas'd King in his Children, and maintain their rightful Succeſſion to the Crown, can neither be reproached with Ingratitude, nor with Perfidiouſneſs; when they honeſtly and ſincerely keep inviolate and ſacred the Oath they had Sworn to the King, and his Children or Lawful Heirs. As Ingratitude is the greateſt baſeneſs that either ſingle perſons or any body of Men, are capable of; ſo a grateful ſenſe and remembrance of Benefits receiv'd, is the moſt delightful and acceptable thing among men; even among ſuch as were not ſharers of the former favours receiv'd. *Caullus* was certainly in the right, tho in a matter of ſmall moment, when he ſaid,

Difficile eſt longum ſubito deponere amorem.
It's very hard at once to be
From a long rooted Paſſion free.

And

And people naturally are most inclined to obey a Government and Authority to which they have been long accustomed; and without all peradventure the Princes, who take the greatest care that their Subjects shall ever have their memorys in the highest veneration, do most effectually consult the happiness of their own Children, and their Posterity. By this means, they most certainly secure themselves against Rebellions, whilst they Live, and no alteration in the Affairs of their Children, or of their Succession is to be fear'd after their Death. For when the people come to have the deepest and most lasting Impressions of him on their minds, to pay the utmost Obseryance to him, for his worthy deeds, and the publick Blessings and tranquillity they enjoy'd under his Reign, whose Death they so lament when they can enjoy him no more. They cannot, I say, but transfer their affection and duty to his Children, as the only remaining Images of their deceas'd Soveraign; they will reverence, honour and obey his Son and Lawful Successor, defend him with their Lives and Fortunes, maintain and promote his Honour, Dignity and Safety, Guard him against Violence, and quash all Tumults or Rebellions, if any shou'd happen. We read even of *Julius Cæsar* the *Dictator*, that the *Romans* had so great regard to his memory, that they rais'd his adopted Son *Octavius* afterwards to the Empire, and assisted him to their utmost, to Revenge the Murder of the *Dictator*.

People more easily obey a Government they have been accustomed to, than a new one.

The rights of Succession can hardly be discontinued.

In the next place 'tis to be considered, that a well establish'd and firmly rooted Succession, can hardly be shaken or altered. For Impressions may sink so deep in mens minds, that they cannot be effaced or eradicated, without destroying the Subject, especially if derived and handed down to them from their Ancestours, as the rights and custom of *Succession* are. The memory of favours receiv'd, will always be present to mens minds, and cannot be obliterated; the kindness and worthy deeds of the Parents still shining bright, will make them entertain good hopes of their Children, that they may resemble them in their great and good Qualities. Whereas the benefits that are convey'd by Election, by their novelty are ever unstable and transient, and the change is always favourable to one side or party. And new chosen Kings, unless endow'd with extraordinary Vertues, can never without the greatest difficulty maintain their Government. A new King will be for new Laws, Statutes and Customs or Fashions, and lastly new Friendships and Enmities. Whereas in *Succession*, the King seems not so much to die, as to live again, and be restor'd to them, in the Person of his Son, as it were by the *Colchic Arts*, as *Ovid* says of *Jason*.

Artibus colchicis.

Succession being vested by most Nations; and its violation in any Monarchy.

Ante puer, dubitem an hunc se nimiùm simili vultu.
He knows he the same Youthful Features wore
That self same Man just forty years before.

The same friendships and Allianees continue.

And 'tis most probable, that they who Succeed their Ancestours in the Kingdom, will endeavour also to imitate their Vertues and noble undertakings; and cultivate their friendships. Neither is Succession liable to many Seditions and Innovations. In Succession there is no occasion for an *Interrex* or an *Interregnum*. But according to the French proverb, *The dead King gives life to the next Successor*, that is, puts him in Possession of the Kingdom, and when the body of the dead King is depo-

depoſited into his Sepulchre, and the Funeral Song (*the King is Dead*) is ſung, with a mournful accent, joyful acclamations are return'd by way of reſponſe, *Let the King Live.* So the ſame friendſhips continue, which was recommended, by *Lewis* XI. King of *France* on his Death-bed, to his Son *Charles* VIII. (who had experimented the danger of Alterations) to continue the ſame Magiſtrates in their places, and that they ſhou'd judge between Debtor and Creditor as formerly; ſettle Inheritances, and puniſh with the ſame Scale of Juſtice all Murders, Robberies, Thefts, Devaſtations, Rapines, and all other crimes as before. All publick writs were iſſued forth in the Kings Name, from the very beginning of his Reign, His Name is owned and received by the Subjects, with dutiful reſpect and honour, the ſame hope of reward, and fear of Puniſhment, encourages good men to behave themſelves worthily, and deterrs ill men from perpetrating Crimes. Laſtly Ancient Magiſtrates and Laws eaſily ſecure themſelves: Whereas the novelty of Magiſtrates and Laws, can hardly ſubſiſt, by any hope of rewards, or fears of puniſhments; and by conſequence, the State cannot receive ſo many advantages, as it does inconveniences, and evils, by new Laws and Innovations. By and by I ſhall treat of Pupils, Infants, furious Perſons, Fools, and the like.

No place for Ambition in Succeſſory Monarchies.

In Hereditary Kingdoms there is no room for Ambition: to what purpoſe, ſhou'd men aſpire after that, which they know they cannot obtain? when people live under a King who is able to reſtrain their inordinacies, from breaking forth into unjuſtice, and even their affections from unlawful delights, no man can engage the Mob or People, that ſet themſelves to Sale, by bribes or baſe corruption. To what end, will a man give his Money, or entertain thoughts of compaſſing a thing, that he dares not diſcover, and if he diſcloſes his deſign, he endangers his life, and all that he has. *No conventions* need be call'd for chuſing a new King, no contentions among the great men of the Kingdom, who is the better man, or who is beſt qualified to Govern the State, in times of peace and War? Add to theſe things, the good education and temper of the Prince, which cannot be neglected by a Father, to be afforded to his own Son, whom he loves dearly, and deſigns for his Succeſſor; But he will always be ſure, to take care, that he be not unskilful in affairs of Government, when he comes to ſit at the Helm. No man can be preſumed to be ſo concerned as a Father, to have his own Son well and wiſely inſtructed and educated; That the Seeds of thoſe Duties, which he owes both to his Father, and to his Country, may be ſown early in his mind, and ripen as he grows in Years. In this Succeſſion, *the Father prepares every thing for his Son according to his own mind*, ſays the Lawyer, *for by the Law and Right the Father is ever Solicitous for the Education and Profit of his Son, and will be mov'd to uſe his beſt endeavours for procuring his Intereſts.* He can receive no cauſe of Provocation from his Competitors or Rivals. For he, who Succeeds by his Birthright, has none, and conſequently is not diſordered with the Paſſions of Anger, Hatred, Covetouſneſs, and leaſt of all with Revenge, as having no temptation to them; He bears a Fraternal, or rather a Fatherly affection, towards the great men of the Kingdom: He is ſafe from Tumults and Seditions, being conſcious to himſelf, that he has as yet done nothing, to provoke or deſerve the reſentments either of the People or of the Nobility.

Ex voto pater filio omnia parat. pater enim ex jure ſemper ſollicitus eſt de Inſtitutione & commodo filij, omnique cura ad ejus commoda procuranda movebitur.

No Competitors or Rivals in an Hereditary Monarchy.

As ſoon as he comes to have the reins of Government in his hands, as being well educated, he cannot but know, that it's his part to manage them wiſely, and not to abuſe his power, and that by governing well, he ſecures to himſelf a Peaceful Reign while he lives, and entails a Safe and Laſting Empire to his Poſterity, after his own Death. He has many inducements to mind his buſineſs, and to Govern his Kingdom well, ſuch as, firſt the frequent remembring his Parents, and the Oath he has taken, theſe will put him in mind of his Duty both to God, and to his own People. And beſides, he is not ſo likely to be lifted up with Pride, as thoſe who are ſuddenly raiſed to Greatneſs; For he comes only to enjoy his own, and what he always had in his view. For when a Father knows that his Children are to Succeed him, he will be ſure to employ all his beſt endeavours for the well being of that *State*, the greateſt part, nay the whole of which, is his own, and his Childrens Inheritance. But that King who at moſt has it only during Life, whoſe Family has no Claim to the Kingdom after his Death, endeavours to enrich his Family, with the Spoils of the Common-wealth, what ever the Publick loſes, is his gain. So that a Kingdom is always in great danger, under ſuch a Government, where the King makes all that he can of it.

He who ſucceeds to a Kingdom has more occaſions and inducements, and is moſt capable to Govern well.

When *Flaminius* after he had Conquer'd *Philip*, ſet himſelf to compoſe the affairs of *Greece*, and being invited to ſettle matters at *Theſſaly*, which was under an *Ariſtocratical* Government, he appointed the Wealthieſt men among them, to be their Magiſtrates; and being ask'd the reaſon for it, ſaid, 'Twas becauſe the Intereſt of thoſe men, oblig'd them chiefly to conſult the Safety of the Common-wealth. In like manner, ſhou'd a King, profuſely ſquander away his own Eſtate, or by ill Government impair it, the loſs neceſſarily affects himſelf and his Family. He cannot but know alſo, that the good Will and Affection of his People, is moſt neceſſary and of great Conſequence to him, and having ſecur'd that, he may depend on their Faithful Service, and ready Aſſiſtance in Adverſity and in War: But that is not to be attain'd, but by a Prudent Government, and an obliging Conduct in the King. He muſt be ſenſible at the ſame time, that great Regard is to be had to the Nobility, that he is to engage them in the ſtricteſt Bonds of Society and Friendſhip; that in caſe of War, they may unanimouſly and chearfully ſuſtain the burden of it, with their Prince; being aſſur'd that without their hearty concurrence and Support, he muſt give over the War, tho' undertaken juſtly by him, and make a diſadvantageous, as well as a Diſhonourable peace. Being well inſtructed in thoſe things from his Infancy, it may be expected that he will Practice them, when he enjoys his Kingdom; and ſeeing he is not able to do every thing by himſelf, or to diſpatch whatever belongs to the Safety and happineſs of the Kingdom, he will make choice of good, diſcreet and wiſe men, who having experience in Affairs under his Father, are moſt capable to give the beſt advices in all matters; and as far as human wiſdom can go, to guard againſt inconveniencies, upon whatever emergents: and unleſs he takes ſuch meaſures, a proſperous Reign and adminiſtration of the Government is not to be expected. For theſe advantages in Government, are with more reaſon to be look'd for from a Prince, who is well inſtructed from his infancy, and has all the advantages of Education ſuitable to his Birth and Fortune, than of a Novice, who at moſt is bred up only to lead the life of a private man. To ſuch an one all thoſe things will appear new and ſtrange, and he will be overwhelmed with the

greatneſs of ſuch affairs, confuſion perhaps and a giddineſs will ſeize and diſorder him, as the Poets ſaid of *Phaeton*, who having obtained of his Father as a mighty favour, to govern the Chariot of the Sun for one day, did by his unskilfulneſs and unacquaintedneſs with his new employment, ſo overdrive that he ſet Heaven and Earth on fire, and brought ruine on himſelf and his Family.

The art of reigning eaſieſt to ſuch as are early inſtructed in it.

The art of Reigning is not ſo eaſily attain'd by any, as by him who has been train'd up in it from a Boy; and has ſerv'd an Apprentiſhip to it. He will endeavour all he can to enlarge and better his Kingdom, to increaſe it's riches and power, and to extend it's bounds, For this will not only add to his honour, and make poſterity have him in the higheſt veneration, but will alſo be a great advantage to his off-ſpring. Husbandmen tho' decrepit, and even ſtepping into the Grave, do not forbear to plant Trees, Vines and Olives, tho' they themſelves are never to ſee the Fruits, nay perhaps not to ſee the Bloſſoms of them; and all this for the benefit of their Children. Nay oft times Parents break through all Laws both divine and humane, that they may load their Children with Riches and Honours, ſuch care of Children is implanted by nature in the minds of Parents, that in all their toil and induſtry, they have their Children always in their eye. Nothing affords them more pleaſure whilſt they live, than the thoughts that the more Powerful and Opulent they leave the Kingdom, their Children will be in the more Proſperous and Flouriſhing condition. This King will not be apt raſhly to empty his Treaſury by vain and profuſe Gifts, but rather uſe a prudent liberality, well knowing, that whatever is thrown away needleſly, takes ſo much from himſelf and his Children: But it's quite otherwiſe in Elective Governments, when he who is choſen King, is altogether unconcerned what becomes of the publick after his own Death, as knowing, that the Kingdom is not to deſcend to his Heirs, and ſo he makes it his buſineſs to enrich his family as much as ever he can, to the loſs, if not to the ruine, of the publick.

Object. Some may object, that a King who inherits by Succeſſion, is moſt apt to ſwell and be lifted up with Pride, when he thinks himſelf obliged to no man, but to his Anceſtours for the Kingdom, has no returns to make for good Offices done him, neither will he reckon himſelf under any ties of Laws or Rules of Juſtice. And it may very often happen, that wicked men may inherit a Kingdom by Succeſſion, and conſequently, have Power over the Lives and Eſtates of their Subjects. So that this ſort of Monarchy, for the moſt part degenerates into Tyranny, whilſt the King regardleſs of his peoples welfare, minds only his own Intereſts and Grandeur, and ſometimes is ſo intent to ſatisfie his baſe Luſts, as to neglect the concerns of the publick.

Anſwer. To which I anſwer, That there is no ſort of the beſt Governments, which does not ſometime or other participate of the vices of the kind of Government which is oppoſite to it, and by a kind of mutual affinity, draws one or t'other of the extreams to it; for example, Democracy where it takes, ends commonly in ὀχλοκρατία, or a Mobbiſh Government, Ariſtocracy in Oligarchy, and Monarchy in Tyranny, as when a Monarch dreading no Superiour Judge, thinks he may do whatſoever he pleaſes, as *Tacitus* writes of *Nero*. Nay the wiſeſt man can hardly keep a mean, in the height of Greatneſs and Proſperity; 'Tis hardly poſſible, but he will either be puffed up with Pride, or enflamed with Envy or Anger

All forms of Government have their faults.

(Vices

(Vices that all Mortals are more or less tainted with) and will do many things rashly and wickedly; as *Alexander* the great spoiled his excellent endowments of body and mind, when he came to be intoxicated with his great Successes. To speak impartially, there is no Government, under whatever Form or Denomination, that is free from all faults; but what *Horace* says of men

Nam vitijs nemo sine nascitur: optimus ille est
Qui minimis urgetur.

All have their faults and he's the highliest blest
Whose bosoms with the fewest faults oppress.

may be applied to Governments; there is no kind of them, no Constitution on Earth, that is faultless, and is not attended with, or liable to Several inconveniences and Evils. 'Tis not possible to order humane Affairs with so much wisdom and precaution, as to guard against all inconveniencies, that men are ready to run into. And the dangers rise in Propotion to the importance of affairs. But in such matters the most known Evils are by far, most tolerable, and men are least exasperated at them, as was before observed, of the people of *Campania*. Succession to Kingdoms has its own inconveniencies, but they are light compar'd with its Advantages, and indeed these Evils cannot be, but by those advantages. For even Peace its self, which is one of the greatest Blessings of humane Society, and is most acceptable, and attended with greatest quiet and prosperity, may at the same time, be hurtful to some; but what is this to the general good of it? How light in comparison? And even in making Laws, it cannot be avoided but some men will receive damage. Now if the exposing many good men to real hardships, be a good reason for abrogating of Laws, all Laws must be abolished; for there is no Law, Edict, or *Ordinance to which the people assent*, that is without its own inconveniencies. And as *Cato* used to say, He that will have Laws annulled, upon the account of some inconveniencies in them, is most certainly for destroying all Laws. a But all agree that of all Governments, Monarchy and Hereditary Monarchy which is by Succession, is the best, for it's attended both with the most advantages, and liable to the fewest inconveniencies. And if one weigh this matter well with himself, he'll be easily convinc'd, that an Elected King is more apt, and has many more occasions, to magnifie himself above the people, and to be more puffed up with Pride, than a King who inherits by Succession. For the lawful Heir of a Crown, seems not to himself, to attain any new thing, but only the State and Dignity he was Born to; and which he had always in his prospect, whereas the Elected Monarch, aggrandized with his new Fortune, entertains big thoughts which he puts on, with his new Cloaths and Robes, and grows Insolent, and as the Poet says,

Chap. 7.

All Governments have their inconveniencies, but Hereditary Monarchy has the fewest.

a Liv. lib. 34. Orat. pro l. opp.

Asperius nihil est humili dum surgit in altum.

None wax more Proud, we dayly see,
Than Beggars rais'd to high Degree.

Our Ancestors, having experienc'd the advantages of this Successive Monarchy, through the Practice of many Ages, and by constant observation, entailed

entailed and recommended it to Poſterity, in order to their well being, and as the beſt mean to keep people in their Duty, and in peace and quiet. Monarchy is altogether free from, and ſecured againſt the miſchiefs which we ſee in Ariſtocrary, where the Government is in the hands of a few; or in Democracy, which groans under the Tribunitian furies, and the miſchievous Tumults, and Commotions of a mad raging people, to the great hurt of the publick. I freely own that Monarchy is not without its own Inconveniencies, but without which Monarchy is not to be enjoy'd, and the Hereditary Kingdoms have fewer, than the Elective Monarchies. For ſometimes Tyrants have been rais'd to be Kings, and choſen even by the people, or at leaſt, they have degenerated after they began to Reign, into moſt Cruel Beaſts. The hiſtory of the Kings of *Iſrael*, who were made or Elected by the people, confirms beyond all Exception, the truth of what I ſay, for they generally commenced Kings, by Murdering their Predeceſſors, and they continually wallow'd in Blood and Butcheries, as long as they Lived. Few who are choſen Kings, can bear their Sudden greatneſs with an equal Temper, and fewer uſe to obſerve a mean. *Tacitus* ſays, that *Veſpaſian alone became better by Reigning*. And *Diocleſian* us'd to ſay, That the beginning of a Reign was commonly gentle, until the Prince gain'd the peoples Favour; but when Kings had once gain'd their Point, and were in Poſſeſſion of the Kingdom, they ruin'd all by Sloth and Viciouſneſs. In new ſetled or Elective Kingdoms, all things are more eaſely diſordered, the State and quiet of the people is ſoon ſhaken, all is changeable; and Novelty is ſaid to be *the Mother of diſſentions*. For if in this new Reign, any of the great men, who for his Merits, Popularity or Power, is eſteemed, and has a great intereſt among the People; if this man, I ſay, ſhould chance to be ſlighted, or fanſie himſelf to be diſobliged by the new King, he is ready to endanger with himſelf the whole Kingdom, for Satisfying his Anger and Reſentments. I ſhall inſtance in the known ſtory of *Edward* IV. who was ſet on the Throne of *England* by the Aſſiſtance chiefly of the Earl of *Warwick*, and for a ſmall diſpleaſure, was Dethroned and driven into Exile by the ſame Earl; and *Edward*'s Party was not appeaſed, by the Death of *Warwick*, and his Brother the Marqueſs of *Montague* until they extinguiſh'd their Family, and yet *England* never had two finer Gentlemen, than theſe Brothers were. Hence it appears, that Election is not free from its own Inconveniencies; and an Elected King may become a Tyrant, and Spill the Blood of his Nobles, as well as an Hereditary Monarch, nay oft-times more. So that more Safety is not to be expected, in an Elective than in a Succeſſory Kingdom. That ſaying of *Tacitus*, comes often to my mind, *Minore cum procerum invidia Princeps ſumitur quam quæritur*. A Prince by Succeſſion, occaſions leſs envy among the great men, than one that is Elected As if he had ſaid there is leſs danger in receiving any Hereditary Prince whatſoever, than by looking out, every where for one by Election. Succeſſion can never occaſion ſo many evils as Election, when they pretend to look out for none but a good man, and yet that good man cannot be found, or if they meet with ſuch a one, yet he is no ſooner rais'd on High, but ſtraight he forgets his former Condition and Modeſty.

Furores tribunitios.

Solus Veſpaſianus regnando melior effectus eſt.

The notable ſaying of Diocleſian.

The Lawyers prefer Succeſſion to Election.

As for our Lawyers, to whom the diſcuſſion of this Queſtion properly belongs, they prefer Succeſſion to Election, following the Authority of *Julianus*, becauſe thereby Strife and Contentions are taken away. Why, ſays he, ſhou'd the *Pretor* ſuffer thoſe to take Arms and ſtrive among themſelves, whom by his Authority he can reſtrain and compoſe? whence they all con-

conclude, that when any thing is demanded, or a Controversy arises, concerning any affair, the *Pretor* is obliged chiefly to use such care and precaution, as that the contending Parties may not have their recourse to Arms or Strife. All other Doctors of the Law deliver the same Doctrine, least Seditions should ensue the death of the chief civil Head, about his Successor, who ought to be Substituted in his place. Upon this account, say they, it's profitable or expedient that a certain Race be nominated, whence these Heads may be assumed; and they bring the like Instances from Law, by which in an Establish'd order, honours may descend, without disorderly Tumults and Contentions. Again, to prevent Competitions in that Family, they thought that the first born shou'd inherit, and be preferr'd to all others of the same Race: For these reasons, because the Father takes greatest care for the Education of his first Born; and Secondly, because the Father will make it his chief Business to enlarge the Kingdom, which he knows is entailed on, and descends to his Son. For *Primogeniture* obtained chiefly for that reason, that the safety, and quiet of the people, which deserves the highest regard, by people of all Ranks and Degrees in the Common-wealth, might be preserved, and all occasion of Tumults cut off. And if the Prince who is to succeed, be well Educated, (which all the States of the Kingdom are above all things concern'd to take care of) 'tis not so probable, that he will degenerate into a Tyrant, as he who is made a King by Election. For none are naturally so Fierce, Inhumane or Barbarous, but that they may by discipline and a careful Education, be form'd to virtue, and that Education oft-times Conquers their natural temper. *Lycurgus* proves this by his Instance of two Dogs, that were twins, one of which being bred to Hunting, and rainging in the Forests, and t'other to live in the Kitchin, a Hare being Started, this goes straight to the Kitchin, and that runs after his Prey. When the Physiognomist had declared his opinion of *Socrates*, that by his Countenance, he appear'd to him to be a Stupid, and Passionate man, and addicted to all Vices, he was Laugh'd at by all present, who knew that *Socrates* was never stain'd with any ill things. But *Socrates* owned that the Physiognomist had made a right Judgment, and that he was by his natural Temper, strongly inclin'd to those Vices, and that he still had Inclinations to them, but that by study, and chiefly by good Education in his Youth, and by Philosophy, he had corrected and overcome his natural bad Inclinations. I have always observ'd on our Borders, that the chiefs of heads of Families, are constantly men of great Courage and Valour, which qualities are not to be ascribed to their being Born there, rather than in the Center of the Kingdom, but they being oblig'd to constant Military exercises, and having frequent rencounters with their Enemies, they must not be Soft or Foolish, that would be fatal to them; their Education and manner of Living, makes them both Stout and Cunning, and able to endure hardships. From my one observation, I have indeed always found, that more men have attain'd to virtue, rather by Education, than by a good natural temper; and that Education contributes more to excellent Accomplishments, than good nature. *Cicero* affirms very truly, that no Soil is so Barren, but by Cultivation and Improvement, it may be made more Fruitful; and *Horace* says of men,

The power of Education.

Plutarch *in* Lycurgo.

Borderers always stout men.

Nullus adeo ferus est qui non mitescere possit,
Si modo culturæ patientem accommodet aurem.

None are ſo Savage, but may milder grow,
If they their Ears to diſcipline will bow.

And ſhou'd we conſult the Annals of all Hiſtories, it will appear that more Princes and great men have been Debauched, and become ill men, by bad Education and the Cuſtoms, and Converſation of vicious Families and Company, than by any original ill diſpoſition in their own Nature; and that their temper was ſcarcely ever ſo incorrigibly bad and perverſe, as not to be ſet right by a compleatly good Education, which is ſufficient to keep a King within due bounds, if Flattery be baniſh'd his Court.

CHAP. X.

All the Arguments brought before, for Election *are here anſwer'd.*

Chapter 5th. IT remains that the Arguments brought in behalf of Election or Elective Governments be anſwered, that the meretricious fucus and varniſh being taken of, what truth is under it may more eaſily appear in its true Light.

The Argument from Deut. 17. *anſwer'd.* What was cited from *Deut.* 17 does no ways prejudice the *Jus Succeſſorium*, but rather ſtrengthens and confirms Succeſſion by Blood. For what I have already cited from the Civilians, Chapter IX. *That the right of Succeſſion being once ſettled in a family, cannot be afterwards alter'd by the People.* This Poſition, they think, is grounded on that very text, For the Lord orders his peculiar people, before they had an eſtabliſh'd form of Government, what the manner of it ſhou'd be, which they were oblig'd always afterwards to obſerve in Political adminiſtrations. For firſt, he allows them Election, yet not one that was altogether free, *thou ſhalt, in any wiſe ſet him King over thee, whom the Lord thy God ſhall chuſe.* Now God having once eſtabliſh'd the ordinary Vocation, as I ſhall make it appear by and by, he no more declares his will to men by any Oracle, or new Revelation. The utmoſt that can be inferr'd, from this text is, that the people, tho' the Election allowed them, had been free, could only at firſt chuſe whom they pleas'd to be King over them. But the Lord ſays expreſly v. 20. in the cloſe of the *Law* or *manner of the King, That he may Reign long and his Children in the midſt of Iſrael.* From theſe words it is evident, that the Lord ordains the Regal Power and Authority being once ſettled on one by Election, to deſcend to his Children; And in this all our Lawyers are agreed.

Succeſſion once eſtabliſh'd cannot be alter'd by the people. For tho' at firſt, the Election of a King ſeem'd to be in the people, yet when once they had choſe him, they hereby transferred to him whom they elected and to his Poſterity, all their Power and Right; So that they could not make a new Election, nor alter the Government or make Innovations: they loſt all that power, as I have already obſerv'd from *Petrus de Bellugа*, and our *Baldus* affirms that ſo long as there is one of the Royal Family, tho' he was a thouſand degrees remov'd from the laſt King, there can be no place for Election. *Rodericus Sancius* a writer

writer of the *Spanish* History, tells us, that *Roderick* the last King of the *Goths* being kill'd, and the Moors being possess'd of all *Spain*, *Pelagius*, with a few who escap'd, retired to the mountanous places of *Asturia* for their safety. He watching his opportunity afterwards, sometimes made descents on the unwary *Moors* (who reckon'd themselves secure and feared no danger) did often attack them, using Stratagems and Ambuscadoes at first, but at last he routed them in plain battel, and recover'd *Gallicia* or *Asturia* from the Moors. This *Pelagius* being afterwards chosen King of *Asturia*, *Sancius* [a] questions how this could be, seeing the Kingdom of *Spain* was not Elective, but descended by Succession to the next in Blood? He makes answer that it was a new thing, and not to be drawn into an Example; but that this Election took place then, because *Roderick* their last King, and all his kindred, were destroy'd in the Wars against the *Moors*; so that none of them remain'd to claim justly the Kingdom by the right of Succession. But from that time the right of Succession obtained without interruption, so that after the Death of the last King, there was never a King chosen afterwards, but the next Heir Succeeded, nor did the Kingdom depart from the Family of *Pelagius*. So then 'tis most undoubtedly true that tho' the people, at their first settling their State, may use Election; yet when the Government is once constituted, and establish'd into a Monarchy, and the Kingdom confirm'd to one Family, they cannot, as long as there is an Heir of that Royal Family remaining, chuse a King of another Family. This proposition *Doleman* himself dares not gain-say, as shall be made appear hereafter. For what once obtains by custom, cannot be alter'd by the people at their pleasure; it is no more at their disposal, nor in their power. For custom oft times is equal to the natural Law: And whoever prefers Election to Succession always supposes, *Si consuetudo non aliter obtinuerit*, that is unless custom be against it, for wherever the constant custom of Succession has effectually taken place, it cannot be rooted out of Mens minds.

[a] Cap. 1. part 3. hist. Hispan.

Baldus in L. quicunque de servis fugitivis.

I come in the next place to consider their second Argument, which is, that in Elections great care will always be taken, to raise to the highest honour and trust, the most deserving person, and the modestest. But I have expos'd this vain pretext for Elections already, in the foregoing Chapter, and that people are often sadly disappointed and baffled in their big expectations, of their Elected King, and this I have illustrated, by examples from history. And if it could be hop'd for from Elections, *That none but good men could be chosen*, we had not hitherto seen, nor read in Histories, of so many impure Popes, who have been most abominably wicked. Take I pray for examples *Silvester* II. who was in confederacy with the Devil, and *Alexander* VI. guilty of the same crime, *Formosus*, *Stephanus* III. *John* XIII. *Hildebrand* or *Gregory* VII. *Boniface* VIII. and *John* XXIII. deserve to be remembred here. But if Instances of latter Popes be more acceptable, or a greater proof of this, take *Julius* II. *Paul* III. *Julius* III. and most others of them, deserve to be rank'd with the former. Let them give a reason for the advancement of such men to the Papacy, who are by themselves, and by the Historians of the Church of *Rome*, branded with all manner of the worst of crimes; the best answer that they can possibly make is, that these Popes were chosen and rais'd to that Dignity, by the Cardinals, who sold their Suffrages to the highest bidder.

In Elections wicked men are oftner Chosen than good men.

This instanc'd in the Popes.

Let

Hereditary Kingdoms not ſo liable to be governed by bad men, as where Election takes place.

Let all the *Annals* of *England*, *France* and *Spain*, where Succeſſion in a right line of the Royal Blood, is as yet obſerv'd inviolate, be ſearch'd carefully, and try if it can be made appear, that ſo many Monſters of men, are to be met with in thoſe Succeſſory Kingdoms, ſo many *Nero*'s or *Heliogabalus*'s, as there have been in the Papacy; where conſidering that the Cardinals, who have the power of Election, are commonly men of Birth, of Learning, and adorn'd with Dignity, and Titles as men of conſcience, are preſumed to chuſe none but the holieſt and beſt of men. Should any man ranſack the lives and actions of the Popes, for theſe laſt five hundred years, Good God! what a ſink ſhou'd he rake in! What monſters of mankind ſhou'd he meet with! The catalogue of them, will preſent him with four or five Flagicious Popes, for one or two who have not been very ill Men. In the Line of the Kings of *England*, from the *Conqueſt* few unworthy Kings are found, for Five Hundred and Forty years As for *John*, he was not Born to be King, and did not ſucceed regularly, and I own he did not deſerve that Dignity. Neither *Edward* II. nor *Richard* II. were naturally ſo ill inclin'd, as corrupted by bad Council, and perhaps unfairly Dethron'd. *Richard* III. was indeed ſo monſtrouſly wicked, that I find my ſelf at a loſs when I ſpeak of him, for his Tyranny, tho' ſhort, ſurpaſſes all that can be ſaid of Tyranny, but he got not the Kingdom by right of Blood, but by *Election* as he pretended, or at leaſt by Force.

The Election of the Tribunes *during the Commonwealth of* Rome.

In the *Hereditary Lines* of *Spain* and *France*, in which the right of Succeſſion has been hitherto preſerv'd almoſt intire and inviolate, 'tis ſeldom ſeen, that Kings are unworthy of their Place and Dignity. And yet we do not find in all the *Roman* hiſtory, that ever the *Comitia* or Aſſemblies of the people of *Rome*, for the chuſing their own *Tribunes*, made choice of a good man, notwithſtanding the *Tribunes* were entruſted with the defence of the people, whom it concern'd above all things, to have a good man in that Poſt; So vain is the hope of ſome men, unskill'd in affairs, or Hiſtory, who promiſe themſelves, with great aſſurance, that in theſe Elections no man will be choſen, but the beſt that the Common wealth affords.

Inferiour Magiſtrates.

Neither ſhall we find any better management in the Elections of inferiour Magiſtrates, for they alſo get into their places by Corruption and Bribery, and ſerve their own ends, by the neceſſity or Covetouſneſs of the people. For knowing that their Children are not to ſucceed them, they catch at all opportunities, to enrich themſelves all they can, and that at leaſt their Children may be Great, Rich and Powerful, and ſeldom mind what is either juſt or decent.

What was before ſaid of the Emperours *Trajan*, *Adrian* and the *Antonine's* tends to eſtabliſh Succeſſion. For thoſe famous Emperours were not rais'd to their Empire, by any publick Election of the Senate, or of the People of *Rome*, but only by Adoption, which is one kind of Succeſſion and not of Election; adopted Children, being reckon'd among their Heirs by the *Roman* Law. And *Joſiah*'s being made King by the people, imports no more, but that the people own'd and followed the appointment of God, with regard to the Poſterity of *David*; and it was not in their Power, to have given the Kingdom to another, than the Right Heir; becauſe of the Oath that had been taken, to continue that Kingdom to the Poſterity of *David*.

The third Argument for Election anſwer'd.

As for what is brought to favour Election, by men otherwiſe conſiderable, *viz.* that Government is a kind of art, as Law, Medicine, and Navigation, and by conſequence, he who is beſt skilled in all arts of Govern-

ment

ment ought to be chosen. Tho' I shou'd grant them this, yet there are few and as rare as black Swans, who understand and equally excel in both the arts Civil and Military, tho' they are both requisite in a Prince, who gets the administration of Government. Great Generals are oft times ignorant of what belong to civil administrations. *Hannibal* is a Competent Witness of this, who after he was overcome by *Scipio*, and *Gisco* a *Carthaginian* gave his opinion, that they ought not to despair in adversity, but after the example of the *Romans*, endeavour to repair their losses; *Hannibal* not minding their civil Liberty and Privileges, pull'd him down from his seat; and having excus'd his rashness, as having always liv'd in a Camp, and being to learn from them what belongs to Civil affairs, he advis'd them to make peace with the *Romans*, owning himself overcome not only in a single Battel, but also in the War. [a] *Volumnius* was valiant in War, but altogether unfit to manage the affairs of the City. [b] *Marius* was an excellent Souldier and General, but the worst Citizen. But it's more probable, that one, who from his childhood is bred up to the hope of a Kingdom, taught the best precepts, and as he grows in years, is used to business and to the reading of History, which presents him with examples of Vertue and Vice, shews him what becomes and what dishonours a Prince, and the different end of a good, from the tragical event of Bloody and wicked Princes; I say, 'tis most probable that one thus distinguish'd by his Birth and Education, will be best accomplish'd in the arts of Peace and War, and consequently fittest for Government; especially if compar'd with those who are Educated in such Schools, as at most can only afford them precepts and instructions for a private life.

[a] Livius lib. 30.
[b] Liv. lib. 8. dec. 1.

A well educated Prince the best fitted for reigning.

Another inconveniency, that the adversaries to the *Jus Successorium* object against it, is, that an Infant or a boy may happen to Succeed, which is a punishment that God inflicts on a People in his Anger, as it's said, *Cursed is that Land whose King is a Child.* To which I answer, first, that we often find in Sacred Scripture, that God is pleas'd to turn his Curses into Blessings; for example, tho' God gave to the Children of *Israel* a King in his fury, and to punish him for rejecting the Commandment of God, cursed that Kingdom in *Saul*, yet God was pleas'd afterwards to establish and confirm the Kingdom to *David* with a blessing, and promis'd he wou'd *leave a Lamp to Israel*, having assured the Kingdom of *Judah* with *Benjamin* to the *Off-spring* of *David*. And in this very Kingdom Children Succeeded. King *Joash* in the Seventh year of his age, and *Josiah* in his eighth year, and yet God's people had never a better King of all the Progeny of *David*, than he was 2 *Kings* XXIII. 25. The Land was not curs'd for the nonage either of one or t'other of those Kings. And tho' *Manasses* was no good King, nor a blessing to the Land, yet he began to reign in the XII. year of his age. By these instances 'tis apparent what the right of Succession was in those days, in the Kingdom of *Juda*. St. *Paul* also bears us Witness, that Children lose not the Dominion or Inheritance of their Estates, that devolve on them from their Parents *Gal.* IV. 1. For, says he, *The Heir, as long as he is a Child, differeth nothing from a Servant, tho' he be Lord of all.* The Apostle distinguishes in that text between the Inheritance, and the Administration of it, so as the Child, who is Heir, is Lord of all, tho remov'd from the Administration, and put under the discipline and conduct of Tutors and Guardians. The case of Kings in their minority is exactly parallel, they are Heirs and

The fourth argument concerning an Infant King consider'd.

Children notwithstanding their being minors succeeded to the Kingdom of Judah.

Lords, tho' all that time others more Skill'd in affairs govern the State, in their name. 'Tis truly evident from the *Reſcript* of the Emperours *Severus* and *Antoninus*, that an Infant may be a *decurio*[a]. In *England*, who cannot ſay, but that the Nation was bleſt in *Edward* VI. who was but Nine years old when he began to Reign. *Henry* III. was not full Nine; nor *Richard* II. Eleven, nor *Edward* V. Thirteen compleat, and yet their want of years did not debar them from *Succeeding*. *Henry* VI. was not one year old when his Father died, and yet at that age he Succeeded to the two moſt potent Kingdoms of *France* and *England*. Yea in elective Empires, *Otho* III. being only Twelve years of age, *Frederick* II. at Eight, and *Henry* IV. when but Four years old, were advanc'd to be Emperours, tho' the Seven Electors had ſworn, that they would chuſe none but the beſt man, and who might be moſt uſeful to the Common Wealth. In *Spain*, tho' Boys did oft times ſucceed, as *Ramirus* III. in his fifth year, *Ferdinand* IV. in his Ninth, and *Veremund* III. a Child got the Kingdom of *Leon*: I ſhall only bring one Inſtance from *Sancius* of *John* II. who being left an Orphan in the Cradle in the year of our Lord 1404. tho' many conſpired to take away his life, yet being preſerv'd by the Loyal Grandees from the Snares and Plots of his Kinſmen, he became a moſt renown'd King; none ever diſtreſſed the *Moors* in *Spain* more, or with greater bravery recover'd, what had been taken from him in his nonage, than he did. So *Sanctius* King of *Caſtile*, left his Son *Alphonſus* Four years old, who was preſerv'd by the commendable fidelity of the Nobility of *Caſtile*, notwithſtanding his Uncle *Ferdinand*, who having a deſign on the Kingdom, ſought after his life. And *James* Son to *Peter* of *Arragon*, was made King of it, in the Fourth year of his Age.

[a] L. 1. De muneribus & honor. 10. Cod.

And in England.

In Germany.

In Spain.

Paſs we now to *France*, and we ſhall find by the practice of that Kingdom, that Infants Succeeded and ought to Succeed to the Throne, from the examples of *Charles* VIII. and *Charles* IX. and before either of them by *Lewis* IX. which *Doleman* himſelf does not openly deny; but in order to exclude them, he prepares his way by Sophiſtry, affirming that he who wou'd Succeed to a Kingdom, ought beſides the prerogative of Blood, to have two things, *Power* and *Will*, ſo that none is to be admited to Succeed, who cannot of himſelf adminiſter the Government, (which plainly excludes *all minors* and infants eſpecially) who are not ſuffered to manage their own affairs, and *Will*, which in this ſenſe is, that he ſhou'd govern in all affairs, not according to his own will, but as preſcrib'd to by others.

And in France.

The fifth Objection anſwer'd.

To the objection taken from Children's being Fools, Mad, Deaf or Dumb, who are uncapable to govern either themſelves or others, I anſwer, that nothing can be ſo Religiouſly and Regularly inſtituted among men, which with all it's advantages, is not liable to ſome inconveniences; but yet theſe may be remedied otherways than by altering the conſtitution of the Government, which is fatal to the people, and expoſes them to innumerable calamities. For Ariſtocracy may ſometimes ſupply this defect, which next to Monarchy is the beſt form of Government, if it laſts not too long, for it degenerates through length of time; or agreable to *Doleman's* expedient, let the next in Blood have the adminiſtration of the Government, until God be mov'd by the Prayers and Supplications of the People, to remove that evil, which for their ſins, he had inflicted on them.

Sesoris tho' blind continued King of *Ægypt*, [a] and so did *Pheron* his Son, tho' blind also. [b] *Phineus* King of *Paphlagonia* was likewise blind. [c] *Claudius* the Emperour (if we may believe *Suetonius*) was a Fool, and out of his right wits. *Charles* VI. King of *France* tho' he lost the use of his reason, by the sudden apparition of a Ghost, reign'd notwithstanding, but the administration of the Government, was entrusted to his Uncles. And *Agesilaus*, tho' Lame was made King of *Sparta*. And in the Sacred History we find, that tho' *Uzziah* was struck with Leprosy, and separated from the Society of men, yet he was not dethroned, This shou'd teach us, not to attempt to depose Kings, and thrust them from their Kingdoms for their unaptness or as they call it, Inhability; for the Successory Kingdoms become Patrimonial, and the defects of such as are less fit to govern, may be supplied by vicarious administrations: This is a much better way, than by a new Election quite to shake and unhinge the State.

[a] Diodor. Siculus.
[b] Herodot. in 2.
[c] Ovidius l. Metam. & Apollinius Rhodius lib. 2. Argonaut.

Ob inepti-am sive inhabilitatem.

It remains that the Case of *female* Succession and Government, which Learned men have sometimes carpt at, be briefly consider'd. They say, that the Law of Nature excludes *Women* from all civil Offices, and the Divine Law which claims the highest regard, and the civil Law require *Women* to be in Subjection to their Husbands or Parents, that is, they must be under the Power and Government of others. To this I answer, that neither the Divine Law nor the Law of Nature, nay nor yet the civil Law, put any other women under the Subjection of men, but only such as have Husbands; and no shew of reason can be given, for excluding Women from the Inheritance of their Ancestors, or from the administration of it. For from the Law of God, we find that *Moses* having ask'd Counsel of God in the case of *Zelophehad*'s Daughters, commanded, according to the will of God, that their Fathers Inheritance should appertain to them, there being no Sons. And that the Law of Nature agrees to the Divine determination, shall be made appear afterwards. And if we acquiesce, as we ought in the declar'd will of God in holy Scripture, we shall find that *Deborah*, tho' a married *Woman* and Subject to a Husband, reign'd over the Lord's people notwithstanding, what else can be meant by her *judging the People of God*, but her reign over them for that time? For *Judging* is the chiefest part of Government, we are not to strive about names of Authority when we find the *Power* expresst by them, to be the same; *And* Deborah *had dominion over* Israel, *and the Children of* Israel *went to her for Judgment in all difficult cases*; and she says of her self, that she *arose a Mother in Israel*, which imports her Authority, (for *Pater Patriæ* Father of the Country, signifies one's princely power) the Country had been desolate untill she came into the Government. Yea she adds, *That the Lord made her have Dominion over the mighty*. This place of Scripture might serve for all, tho' I doubt not, but she had an extraordinary call from God. One thing is observable, that God endow'd Women with the same perfections, and has equally manifested Himself in them, as he has in men. I pass over many Instances that may be brought from antiquity of *Female* reigns, among the ancients Queens did often reign. *Reginam scit ferre Pharos*, The Kingdom of *Ægypt* was accustomed to be under Queens that were Soveraigns, says *Lucan*. But to say nothing indeed of the Barbarous Nations; we may take notice that after the *Jews* return from *Babylon*, when the *Asmoneans* had assumed the Kingly Title and Dignity, *Alexander* II. being dead Queen *Salome* or *Alexandra* (his Widow) reign'd over God's people, and left

Concerning the Succession of Women.

Women not excluded from Inheriting either by the Divine, natural or civil Law.

Zelophehad's *Daughters.*

Deborah.

Judges v.

Q. Salome.

left the Kingdom to her Son *Hircanus*. There is certainly no manner of reaſon to deſpoil women of, or to exclude them from their Patrimonial and Paternal inheritance. Daughters as well as Sons were allow'd to inherit, and to Succeed their Parents and Forefathers by the moſt ancient Laws of the XII. *Tables*, and *Juſtinian* himſelf condemns them as violaters of nature, who ordain any thing contrary to the Succeſſion of women more than of men. Women have often Succeeded in *Spain*, and have brought along with themſelves, both the right of Succeſſion, and Kingdoms to their Husbands. *Alphonſus* ſirnamed the *Catholick* Succeeded to his Father in Law *Pelagius* in the Kingdoms of *Aſturia* and *Leon*. So the deſcendants by the Female line, when the Males fail'd were never debarr'd from the Succeſſion. There is no manner of doubt as to this caſe in *England*, where the Kings *Stephen* and *Henry* II. Succeeded in the right of their Mothers, and the whole Family of *York* deſcended of *Philippa* daughter of *Leonel Duke of Clarence*. 'Tis a known axiome in Logick, *Propter quod unumquodque eſt tale illud ipſum eſt magis tale*. For if the Sons Succeeded for that only reaſon becauſe of their Mothers right, and as Heirs to their Mothers, much more their Mothers had Succeeded, had they been alive. In *France*, where all poſſible care is taken to hinder *Female Succeſſion*, moſt of them notwithſtanding have had the Government, and order'd the Adminiſtration of it. *Catharine* of *Medices* in the minority of her Son *Charles* IX. Govern'd the Kingdom of *France*, and before her *Louiſa* of *Savoy* the Mother of *Francis* I. during his captivity in *Spain*. Such another alſo was *Queen Blanch* Mother of *Lewis* IX. who Govern'd that Kingdom wiſely, during his Minority, who by the happy Education of her Son, as well as her Fortunate Government while he was under age, purchas'd a moſt laſting reputation to her ſelf with Poſterity, and to her own Sex. In *Spain Berengaria* govern'd in the Minority of her Sons *Henry* and *Ferdinand*, with ſo great modeſty and extraordinary Succeſs, that ever ſince that time all the *Caſtilians* have her memory in the higheſt Veneration.

By the Laws of the XII. *tables.*

Naturæ violatores.

Women did Succeed in Spain.

In England.

In France *they were allow'd to be Regents tho' forbidden Succeſſion.*

'Tis evident then that by the civil Law, *Women* as ſuch, and indiſcriminately were never forbid all *civil Offices* and *Adminiſtrations*, ſeeing by the ſame Law Mothers and Grandmothers can perform the Office of Tutor. And cuſtom, which is a Great Miſtreſs of all ſuch things, has by the event declared in their favours.

Women, tutors and adminiſtrators.

We have known two Queens in this very Age in which we live of ſuch eminent accompliſhments, that it may be doubted if any of their Privy Councellours could equal them. I have often heard the moſt Serene Princeſs *Mary* Queen of *Scotland*, diſcourſe ſo appoſitely and rationally in all affairs which were brought before the Privy Council, that ſhe was admired by all, and when moſt of the Councellours were ſilent, being aſtoniſh'd, or ſtraight declar'd themſelves of her opinion, ſhe rebuked them ſharply, and exhorted them to ſpeak freely, as becomes unprejudged Councellours, againſt her opinion, that the beſt reaſons only might overrule their determinations; and truly her reaſonings were ſo ſtrong and clear, that ſhe could turn the hearers to what ſide ſhe pleas'd; ſhe had not ſtudied Law, and yet by the natural light of her Judgement, when ſhe reaſon'd of matters of Equity and Juſtice, ſhe oft times had the advantage of the ableſt Lawyers, her other diſcourſes and actions were ſuitable to her great judgment, no word ever dropt from her mouth that was not exactly weighed and pondered. As for her liberality

and

and other vertues they were well known, but at this time, no more shall be said of her. The other is *Elizabeth* the most famous Queen of *England*, perhaps better acquainted with the Learned Languages, all her neighbours admire her Vertues, Fortune and Greatness, there has been none of the Race of the English Kings since the Conquest, (tho' many of them have been most eminent for their great exploits) who has reign'd so many years, so prosperously, and so highly esteem'd both at home and abroad. But I leave it to others to set forth her Praises, she being as yet alive, that saying of *Plato*,[a] pleases me mightily, That a Woman is not less capable of all Vertues than a Man, nor less quick-sighted in Councils and Deliberations, provided they be often present at them (for use makes expertness) than the ablest Councellours of Kings.

[a] Lib. 5. de Republica.

CHAP. XI.

Concerning the Calamities which have befallen Kingdoms and States for rejecting or passing by the true Heir.

SEeing so many and great mischiefs accompany and are consequent upon *Election*, that even the best Prince wou'd be too dear a purchase at the expence of it, we must have recourse to the *Right of Succession* as to a sacred Anchor, which only is sufficient to preserve and maintain the Peace and Quiet of a Kingdom, to extinguish the Fire-brands of all Seditions, to prevent and restrain innovations, and to afford the people opportunities of Prosperous and comfortable Living. We are then to enquire, who is this true Heir, who by right of Blood, and his being next in course of the Royal Family, ought to Succeed to this most flourishing Kingdom; seeing the exclusion or tacit passing by of the *Rightful Heir*, has always been, and always will be, the Parent of innumerable Calamities in every Kingdom that is guilty of it. That I may perform this the more carefully, I shall bring some examples, by which we may as yet receive seasonable Instruction, and become wise at the Cost of our Neighbours or of our own Ancestours, and that we may take care not to embrace Falshoods for Truths, uncertainties for undoubted certainties, by our contemning Truth, or by an errour in Opinion. And (which is greatly to be Lamented) no part of the Earth is so fruitful of such examples as this our Island of *Britain* is, in which the passing by the true Heir, besides many other unspeakable Calamities; has twice or thrice, overthrown a most noble Kingdom.

The Instance of the Saxons coming into Britain.

After the fatal Counsel of *Vortigern*, who advis'd to bring in the Mercenary *Saxons* into this Island for the Assistance of the *Britains* against the Incursions of the *Scots* and *Picts*; These Auxiliaries soon turn'd their Arms against the *Britains* themselves. There remain'd one *Aurelius Ambrosius* descended of the *Romans*, as *Paulus Diaconus*, *Gildas*, *Beda* and most other Historians affirm, who whether chosen King by the *Britains*, or as *Diaconus* says, that he assum'd the Purple, he Fought sometimes against the *Saxons* with little or no Success, and finding it unsafe to rely on his *Britains*, he makes an Alliance with the *Scots* and *Picts*, which was the more chearfully agreed to by them, because they in conjunction with their new Friends, were to oppose the Common enemies of their Religion. *Aurelius* being strengthned

with the Auxiliary Forces which they ſent him, drove the *Saxons* into *Kent*, and that he might ſecure to himſelf a more ſtrict and laſting Friendſhip and their Aſſiſtance in his Wars, he gave his Eldeſt Siſter *Anna*, in Marriage to *Lothus* King of the *Picts*, and *Ada* his other Siſter to *Conranus*, Brother and Succeſſor to *Congallus* King of the *Scots*. No ſooner was *Ambroſius* dead without Heirs, or *Uterus* (as ſome writers will have it) but the *Britains* puffed up with their former Victories, reckon'd themſelves able by their own ſtrength, to drive away the *Saxons*, and choſe *Conſtantine* one of themſelves for their King. Whereupon, *Mordredus* the Son of *Lothus* being diſappointed of his Right, had his recourſe to Arms, and being joyn'd by the King of *Scots* according to their League, Fought ſo deadly a Battel with the *Britains*, that tho' the Victory inclin'd to *Mordredus*, yet both he and *Arthur* (as ſome tell us) who Commanded both the Armies, were kill'd. The ſtrength of the *Britains* was ſo impair'd, and broken at this fatal Engagement, as that the *Saxons* with their new Recruits, forc'd them to retire to *Wales*; neither cou'd they ever afterwards put a ſtop to the ruine of their Country, which came on apace, when the *Picts* alſo aſſiſted the *Saxons*, while the *Scots* always refuſed them their Friendſhip, becauſe they were at that time bitter Enemies to Religion, tho' the *Scots* were provok'd by many injuries they had receiv'd of the *Britains*. *Polydore*, aſcribes this to *Palladius*'s good advice to *Conſtantine* King of *Scotland*. This one example might ſerve for all, to ſhew how Fatal it is to a Nation to exclude the true Heir from his rightful Succeſſion.

The Second from the ruine of the pictiſh Kingdom.

My ſecond inſtance ſhall be of the *Picts*, a Nation well known to the *Romans*, for their Valour, and a noble Kingdom in *Britain*, famous by the total overthrow of *Egfred* King of the *Engliſh Saxons*, and his whole Army. The *Picts* poſſeſt the better and more fruitful part of *Scotland*, from *Tweed* on the South all along the Eaſt coaſt, to *Cromarty* (the Bay of which is call'd *Sinus Salutis*,) in the North. There was a ſtrict Friendſhip between the *Scots* and *Picts*, ſtrengthned with Treaties Solemnly ratified, and inter-marriages. When *Hungus* King of the *Picts* died without Heirs-male, the Kingdom of the *Picts* devolv'd by an unqueſtionable Right, to his Siſter *Ferguſiana*, and by her to his Nephew by this *Ferguſiana*, *Alpine* King of the *Scots*. When *Alpine* had firſt by diverſe Embaſſies, demanded his Right, and was refus'd, he was then forc'd to do Right to himſelf by Arms, and obtain'd a Notable Victory over them. The *Picts* finding themſelves unable to grapple with the *Scots*, endeavour'd to Supply by Subtilty what they cou'd not expect to compaſs by their own Strength and Power; and ſo having call'd in to their Aſſiſtance, Forces from *England*, and encountring the *Scots*, at a diſadvantage as to the Ground, with which they were unacquainted, routed *Alpine* and his whole Army, and having taken himſelf ſtruck off his Head, and affix'd it to a Pole at one of the Gates of *Camelodunum*, which at that time was their Capital City. This great defeat receiv'd by the *Scots*, by which their ſtrength was much impaired, oblig'd them to forbear farther Fighting, for the ſpace of Four or Five years, but when their youth grew up and were fit for War, and recruited their Army, they fought the *Picts* under the Command of King *Kenneth* the Son of *Alpine*; who was enflamed with revenge, both for the publick wrong that had been done him, and for killing his Father, when they had him Priſoner: So the *Picts* being vanquiſh'd in a moſt Bloody Battel, they had recourſe to *England*, whence they receiv'd Auxiliary Forces purſuant to their Treaties; they had a Second engagement and were worſted;

worsted; and in a Third they were overthrown with a great Slaughter. Some of our Historians give account of Seven Battels between the *Scots* and them, in all which the *Scots* were Victorious; it having pleas'd God to favour their righteous cause. *Kenneth* did not put up his Sword untill he had utterly destroy'd their Metropolis *Camelodunum*, where they ignominiously had set his Father's Head, upon a Pole; and exterminated the whole Nation of the *Picts*. So that at this day the very Name of that sometimes famous Nation, well known to the *Roman* and *British* writers, and especially to *Bede*, is utterly extirpated, there not being a remnant of it now known in any Country of the World; *That other Nations may learn from their example to acknowledge the true Heir, and Successor of the Kingdom.*

The next in course is *Harald*, the last of the English *Saxon* Kings, if he deserves to be numbered among them, who himself set the Crown on his own Head, and Reign'd only nine months; for when *Edward*, the *Confessor* (who was afterwards canoniz'd) was old, and saw that he had no children of his own body, he took care to recall *Edward*, Sirnam'd the banish'd, with his Wife and Children into *Britain* from *Hungary*; where he had married *Agatha* who was Neice to *Henry* the Emperour by his Sister the Queen of *Hungary*. This *Edward* was true Heir of the Kingdom, being the Son of *Edward* the Elder Brother, of King *Edmund* (who was sirnam'd *Ironside* from his extraordinary strength) who had Right to the Kingdom after his Fathers death, but was proscrib'd by *Canutus* the *Dane*, for the Heavens will more easily allow two Suns than one Throne admit two Kings. So *Edward* the *Confessour* offered the Kingdom, which he had unjustly possess'd during his own Reign, to his Nephew if he wou'd return to *England*, as is to be seen in the English Chronicles. But he from his innate modesty refus'd it, and dying within a year after, left one Son very young *Edgar Etheling*, and two Daughters *Margaret* and *Christian*, this last betook her self to a Nunnery, the other was Married to *Malcolm* III. King of *Scotland*. *Edgar* was bred up from his Childhood to the hopes of the Kingdom, to which he was to Succeed after *Edward*'s Death. He not being thought fit to govern for want of years, and the Nation being sore affraid of imminent War from the *Danes*, and perplex'd as to what course they shou'd take, believing that the exigency of their affairs, made it necessary to have a man, and one who was a good Warriour for their King, *Harald* in the *Interim* takes possession of the Kingdom, the People, who had a good opinion of his Bravery favouring his attempt. *William* of *Normandy* being exasperated at what *Harald* had done, contrary to his oath sworn to him, invades *England* with an Army, routs *Harald*, and gets the Kingdom to himself. Of him the Kings of *England* are descended ever since the Conquest. So *Edgar* the true Heir being abandoned and destitute fled to *Scotland* with his Mother *Agatha* and his Sister *Margaret*, whom *Malcolm* fell in love with, and married her; and if one may be allowed to speak truth, since *Edgar* had no issue, the Children and Off-Spring by that Marriage were and are the true Heirs of the Kingdom of *England*, as *Matthew Paris*, *Matthew* of *Westm.* and most English Historians acknowledge. And *Henry* I. a most accomplished Prince was of their mind; who reckoned that his Title, to *England* was not good, untill he took for his Wife *Mathilda* the Daughter of the said *Margaret*; and, the rest of his Children being lost in a Storm, he recommended

The third Instance is from the Conquest of England and the Conquerour.

Matth. Paris, Holinſhed *in the life of* Henry I.

ed his only remaining Daughter *Maud*, who was Empreſs, to his Nobility, adding that ſhe was ſprung truly from the *Engliſh* ſtock, and from the true Heirs of the Kingdom.

But to return to the Conqueſt, what direful calamities and deſtruction did it bring on *England*? What a ſad Scene did that noble Kingdom become? How univerſal were its miſeries? The writers of it's hiſtory relate that then there was no Benefice, no Biſhoprick in *England* that fell vacant, but was beſtow'd on the *Normans*, and if any *Engliſh* man was legally poſſeſt of it, he was forced to reſign it. The Church Plate whether of Gold or Silver, which no Nation had greater ſtore of than *England*, was by the Conquerours command melted down, to pay the Arrears of his *Norman* Army. The Nobility were ſpoiled of their Honours and Eſtates, which were beſtow'd on the *Normans*, ſo that at this day there are but few, if any great Families in *England*, who can reckon their deſcent from the ancient *Engliſh*. Such as were beſt uſed, and had not all their Poſſeſſions taken from them, were at leaſt robbed of the greater part, or compelled to redeem their all; the common people were made moſt miſerable, and quite exhauſted with toilſome Drudgery and Taxes, ſo that ſcarcely was any thing left them wherewith to ſuſtain their miſerable and ſlaviſh Lives. When any War or Tumults aroſe, ſmall Armies of the *Engliſh* were rais'd to oppoſe or encounter them, and whenever any occaſion of fighting offered, they had the Poſts of Honour aſſign'd them, and were commanded to engage the Enemy, the Conquerour making advantage of it, whatever Party prevail'd. And he us'd to ſay, that then all ſhou'd be according to his hearts wiſh, if both Parties would Fight ſo obſtinately, as that none of either ſide ſhould eſcape. In the mean while, he took all poſſible care of his Army of *Normans* and Foreigners, which he kept as a reſerve againſt all emergencies and great dangers; and which was nouriſh'd with the Blood and ſubſtance of the People. So *England* by this change, which was occaſioned, by paſſing by the true Heir of the Crown, was caſt on the Charibdis of all direful Calamities, in ſo much, that the Conquerour had it often under his deliberation to aboliſh the very name of *England*, and to have it call'd *Normannia Major* or the greater *Normandy*, however he chang'd the former bearing and coat of Arms of the Kingdom of *England* and brought into its Shield, the Two Lyons of *Normandy*: Nay and as *Caradocus*, no contemptible writer of the Hiſtory of *Britain*, tells us, the *Engliſh* were treated with that contempt, that the very being an *Engliſh* man, was thought a reproach, and this *Welſh* Hiſtorian ſays, *regnum male partum, laborioſiſſime retentum, turpiter tandem amiſerunt*. They at laſt ſhameſully loſt the Kingdom, which they had Wickedly acquired, and with the hardeſt Labour, and greateſt difficulty maintain'd. Theſe and the like are the Fruits and Advantages, which ſpring from a new Election, and from the rejecting and diſinheriting the true Heir of a Kingdom.

a Succeſſores Britonum in Willielmo Conqueſtore. M.S.

The fourth Inſtance, the Civil Wars between Stephen *and* Henry II.

The Civil Wars between King *Stephen* and *Henry* II. Son to *Maud* the *Empreſs*, furniſhes us with the fourth Inſtance; for while *Stephen* pretended that he ought to be preferr'd to *Henry* II. as being not only one degree nearer to the *Conquerour*, but alſo as he was the firſt Male Heir, he was received and Proclaimed King of *England* by the Nobility; whereas *Henry*, being the Grand-child of their laſt King by his Daughter, and foraſmuch as all the States of the Realm, had ſworn Allegiance to his Grandfather, put in his Claim, Challenging the Kingdom as of *Right* belonging

ing to himself. This contest of a sudden, brought many grievous Calamities upon *England*, for *Stephen* tho' his Right was not good, yet maintained his possession by Force, and *Henry* endeavour'd by War, to get himself possessed of his *Right*, the whole Kingdom was rent into Factions, one War brought on another, so that the Kingdom of *England*, was harrass'd with War on that very account, to its inexpressible loss, for near Twenty years together, until at last the affair was Compromis'd between the contending Parties, so that *Stephen* during his Life, was to retain the Title of King and the Royal Authority, but *Henry* according to his just Right, was to Succeed. The sad consequences of that long intestine War, with which *England* was Plagued, were the Destruction of many Towns, and innumerable Plunderings and Pillagings of the Inhabitants by both sides, and the Ravages committed by the Souldiers, from which nothing was safe. Now there was no other Cause of all those Evils, but the Nations not acknowledging and receiving the Rightful Heir of the Kingdom.

Pray who was that?

The Fifth Instance shall be in *John* Earl of *Mortain*; for when the aboveſaid *Henry* had five Sons, *William* who died young, *Henry* who was Crown'd King in his Father's Life time, *Richard* called *Cœur de Lion*, *Geoffry*, who Married the Heiress of *Britany* in *France*, and *John* the youngest of all his Sons, The three Eldest died without Children, and *Geoffry*, tho' younger than *Richard* died before him, leaving two Children *Arthur* and *Elizabeth*. *Richard* before he began his Expedition to the holy war, declared this *Arthur* Heir of the Kingdom, if himself should die in that War. But *Richard* after his return, dying without Children, *John* Earl of *Mortain*, the youngest of all *Henry* the Second's Sons, usurps the Kingdom, and having seiz'd *Arthur* the true Heir of the Kingdom, and his Sister *Elizabeth*, he killed *Arthur*, and having shut up *Elizabeth* in the Castle of *Bristol*, made her to be starv'd there to Death. So *John* having destroy'd both those Heirs, reckon'd that he had secured the Kingdom to himself. But the Terrours of his guilty Conscience were such, that he was not himself nor in his right Wits, he was so hated by all, that he was left destitute of all Help and Assistance; and generally slighted and Contemned. Mean while the King of *France* takes this opportunity, as Kings commonly make their advantage of the bad Circumstances their Neighbours are in, and seizes all the Provinces, which *England* held of the Crown of *France*, almost all *Normandy*, *Guienne*, *Tourraine*, *Anjou* and *Poictou*, and having separated them from the Dominions of *England*, had them adjudg'd to himself, by the Parliament of *Paris*, as the Superiour of these Lands, or Lord of these Fiefs, upon *John's* not appearing after lawful Citation, to purge himself of the Murther of his Nephew. And that *John* might one way or another quiet his Conscience, which gave him no rest Day or Night, he Subjected his Kingdom for ever, to the See of *Rome*, and became the Popes Vassal for the future, and obtain'd of him forgivness, which they call Absolution, of all the Sins of his past Life, and especially of the Murther of his Nephew (for what cannot *Rome* do?) But all this could not make him safe; for some of the *Barons* of *England* having his abominable Crimes in great Abhorrence, and enraged at their being despoil'd of so many fair Provinces, Invited over *Lewis* Prince or *Dauphine* of *France* to be their King, promising in the mean time, fidelity to him in the Letters which they subscrib'd, and they paying Homage to him as to their Soveraign, *Lewis* having got all things in readyness, Lands in *England* with his Army, and about that time *John* dies very opportunely, as well for himself as for

The fifth from the murder of Arthur *Duke of* Britany *and true Heir of* England.

absolutely false

his Family. Upon his death the Nobility altered their meaſures, and conſidering that his Sõn was Innocent, and that then they had no nearer Heir of the Royal Family, they made him King, tho' he was only Eight years of age, and altogether unable to Govern the Kingdom. Now if we ſearch for the root of all thoſe Evils, which befel *England* in thoſe days, they are to be aſcribed entirely to the paſſing by, and the Murdering of the true Heir of the Kingdom, and to no other Cauſe. But the Father's Crimes ought not to prejudice the rightful Succeſſion of his Children, who are ſafe by their own Innocency, eſpecially as to their Succeſſion in Kingdoms and Empires.

The ſixth is that famous conteſt between Baliol *and* Bruce *Kings of* Scotland.

The ſixth example, famous by the great Slaughter and deſtruction as well of the *Engliſh* as of the *Scots*, was about the Succeſſion to the Kingdom of *Scotland* after the death of *Alexander* III. when *Baliol* and *Bruce* were Competitors and ſtrove between themſelves, about that Succeſſion. And when there had been a firm Peace before that time, between the *Engliſh* and the *Scots*, which continued to that time for the ſpace of Fifty Years, Friendſhip and a double Alliance, had been contracted; and no man ſeem'd to be ſo fit an Arbitrator to whom the Deciſion of an affair of that Conſequence might be referr'd, as *Edward* I. to whoſe determination as Arbitrator, or Judge both the contending Parties (*Baliol* and *Bruce*) had promiſed to ſtand. But *Edward* being more intent upon his own Greatneſs than in Juſtice he ought, ſtarted that Queſtion concerning Homage, that the Kingdom of *Scotland* ſhould hold of *England*, and becauſe *Bruce* refus'd to be his Homager *Edward* adjudged the Kingdom to *Baliol*, who ſcrupled at nothing, ſo he might be a King. No man can deny, but this controverſy, concerning the Succeſſion to *Alexander* III. was the occaſion of innumerable Evils in both Kingdoms, as *Polydore* affirms. For War was commenced in the year of our Lord 1295. and continued without intermiſſion for the ſpace of Sixty two Years, until King *David* return'd from his Captivity. 'Tis certain upon making a juſt Calculation of the numbers of the Slain, that above three hundred thouſand men were killed in that War, if we may believe the accounts given by the *Engliſh* Hiſtorians. They tell us indeed of above two hundred thouſand *Scots* that were ſlain during that War. *Holinſhed* and *William* of *Weſtminſter* ſay ſixty thouſand of them fell at one battel that was fought at *Falkirke*, and as many when *Berwick* was taken. Nevertheleſs ſeeing the *Scots*, who were defeated in thoſe engagements, and many more at other times, were yet *Toto bello victores*, Victors as to the whole War, it cannot be ſuppoſed that the numbers of the ſlain of the *Engliſh* was far ſhort of theirs. For in that one battel of *Bannockburn* near *Stirling* fifty thouſand of them were loſt. And ſhould I reckon the reſt of the fights it would appear I am not miſtaken in the numbers, if all be true which the Hiſtorians of both Nations have written. I would have all men to take notice that thoſe dreadful Slaughters, thoſe unſpeakable Calamities, ſprung meerly from the controverted Succeſſion to *Alexander* III. and from the Partial and Byaſs'd determination of *Edward* I. to whom as to an Arbitrator or Judge, in the affair of that Succeſſion both Parties had promis'd and engaged themſelves to ſtand.

The ſeventh Inſtance. The conteſt between the Families of York *and* Lancaſter.

The Seventh and Laſt inſtance in *Britain* ſhall be in the moſt illuſtrious Families of *York* and *Lancaſter*. For when *Henry* IV. Duke of *Lancaſter* had forced *Richard* II. to abdicate the Kingdom, *Roger Mortimer* was

was the true Heir of the Kingdom, being the Grand child of *Lionell* third Son of King *Edward* III. and Duke of *Clarence*, by his Daughter *Philippa*, whereas *Henry* IV. was only the Son of *John* Duke of *Lancaster* fourth Son to the said *Edward*. This *Roger Mortimer* having been taken Prisoner on account of the publick by the *Welsh*; his friends were pressing to have him Ransom'd, but *Henry* refused obstinately to do it as knowing well that if he should return home he would be his Rival for the Kingdom. So *Roger Mortimer* dying whilst Prisoner with the Enemy, the right of Succession devolv'd on *Richard* then Earl of *Cambridge*, and Father to *Richard* Duke of *York*, who had for his Wife *Anna* the Sister of *Roger*. But the Nobility being incens'd against *Henry*, for his having refus'd to Ransom *Mortimer* the true Heir of the Kingdom, took Arms against *Henry*, first under *Percy* Earl of *Northumberland*, and forc'd him to Fight, not only for the Kingdom, but even for his Life, that Battel and another after it, was Fought with so great Fierceness and Obstinacy. And tho' *Henry* obtain'd the Victory, yet he could not Conquer the troubles and stings of his Conscience, nor think himself secure in his unjust Possession or Usurpation, and so a little time put an end to his Reign and Life. His last words witness his Remorse, and how uneasy he was in his mind, for his unjust Usurpation. *Henry* V. tho' a most renouned Prince, for his Warlike exploits and Conquests abroad, had yet but a short Reign. *Henry* VI. who Succeeded his Father in the two great Kingdoms, of *France* and *England*, being a Soft man, and less fit for Government, that Spark of the Family of *York*'s Right, which for more than Fifty years had lain as it were, hid under the Ashes, began gradually to break out, and at last rose into a Flame. For the Duke of *York* did plainly affirm, that the Kingdom truly belong'd to him, as the rightful Heir of it, and when a great part of the Subjects, were convinc'd that what he said, was true, they took new measures, and own'd his Title, from thence sprung Wars from Wars, So that in the days of *Henry* VI, no less than Thirteen Battels were Fought with the greatest obstinacy on both sides, and above 100000 *English* men were killed in those Engagements. For 'tis evident from *Philip de Comines*, and other writers of that Age, that no less than Eighty of the Blood Royal, were either Slain in Battel, or put to violent deaths. The two Families were Enraged with such deadly Hatred against each other, that they did meditate nothing less than the utter ruine of one another, because until one of them shou'd be extirpated Root and Branch, t'other could never be in Safety. So that both Houses were very near destroy'd, and the Kingdom of *England* it self also brought even upon the Brink of ruin. What *Lucan* says, is applicable to them,

Heu quantum terræ potuit pelagique parari,
Hoc quem civiles fuderunt sanguine dextræ!

What Streams of Blood our Civil broils have lost,
We had Conquer'd Empires, at an easier Cost!

For the Kingdom of *France* was lost by this Civil War, and all the Countries on the Continent, which belong'd to *England*, there being no Army nor Garisons to secure them, whilst the *English*, who shou'd have taken care of them, were destroying one another at home. But the joy of people was above expression after the happy Union of the two Families,

by

by the Marriage between *Henry* VII. and *Elizabeth*, Heirs of *York* and *Lancaſter*; while the Subjects ſeem'd to be deliver'd from a moſt diſmal State, and to have obtain'd a laſting Tranquillity. All thoſe Evils flow'd from the paſſing by, Diſclaiming and Renouncing the rightful Heir of the Kingdom. And that Publick and Univerſal Joy, took its riſe from the happy Union of both Houſes. For the people then perceiving themſelves free from Civil Wars, could divine no other thing, had nothing in their Proſpect for the future, but perpetual Peace and quietneſs among themſelves if *Doleman* (who at this day, makes it his buſineſs to wreſt the right of the Family of *Lancaſter* to the King of *Spain*,) wou'd give them leave to be happy. No leſs Joy would undoubtedly enſue the happy Union of *England* and *Scotland*, ſeeing there have been much more grievous Wars between thoſe Kingdoms, than between the Families of *York* and *Lancaſter*. The Inhabitants of the Borders of both Kingdoms, who are the Stouteſt men in either of them, will have great cauſe to rejoyce, when they ſhall ſee themſelves delivered and Safe from Depredations, Fire and Sword, and all kinds of Ravages and Hoſtilities for the future, for whatever Provocations were given by the Monarchs of either of the Kingdoms, or whatever the cauſe of War between them was, the Borderers and ſuch as lived in their Neighbourhood, or near them ſuffer'd extreamly; for their Country uſed conſtantly to be the Seat of War.

'Tis moſt Evident then, from theſe Domeſtick examples, that no greater Plague, or miſchiefs of more fatal Conſequences, to the whole Iſland of *Britain*, can befal it, than the neglecting or paſſing by, the true Heir is, and debarring him from the Succeſſion, which is his undoubted right, by ſubſtituting another in his place, whether by the Queen, which we cannot ſuſpect, or by the Subjects of that Kingdom. On the other hand *Britain* can never have a more Joyful day, than when both Kingdoms come to enjoy repoſe, and be Cemented and grow together into one Body, under one Prince and Soveraign Lord. And no quiet from War is to be hop'd for, until that happy day comes.

Foreign Examples.

But if Foreign Inſtances, wou'd God that we had no Domeſtick ones, are more taking, the reader will ſee in thoſe, that the injuring and rejecting the true Heir was ever accompanied with Parricides, Slaughter, moſt implacable hatred and deadly grudges; and moſt commonly with the imminent, or ſoon after. with the Actual ruin of the whole Common weal. When *Sennacherib*, whom many reckon to be the ſame with *Salmanaſſar*, after his return from beſeiging *Jeruſalem*, endeavouring to prefer *Eſarhaddon* his third in the Succeſſion of the Kingdom, to his two Elder Sons *Adrammeleck* and *Sharezer*, he was killed by them.

Sennacherib killed by his Sons for preferring their younger Brother to Succeed him.

Atreus and *Thyeſtes*, names deteſtable and to be abhorr'd in all Ages, did for no other cauſe, perpetrate ſuch horrible Crimes againſt one another, but only that their Father *Pelops*, having a greater kindneſs, for *Thyeſtes* his Younger Son, appointed him the Kingdom of *Myſena*, tho' the people deſir'd the Elder, for their King. The very ſame thing ſet the two Sons of *Oedipus*, *Eteocles* and *Polynics* by the Ears, for their Father *Oedipus*, neglecting the right of *Primogeniture*, ordered his laſt Will or Teſtament, that they ſhou'd Reign by turns every Second Year. But *Eteocles* the Eldeſt Brother, having obtain'd the Government the Firſt Year, wou'd never ſuffer himſelf to be diſpoſeſs'd of it afterwards. This was the cauſe of the *Theban* War, which not only coſt the lives of ſeven Kings, but the Brothers alſo, committing their Right to the

The Fate of Atreus *and* Thyeſtes *occaſion'd by their Father's acting contrary to the right of* Primogeniture.

It occaſion'd the Theban *War, and the miſerable end of the Sons of* Oedipus.

deciſion

decision of a Duel killed each other. An example full of Horrour to all Posterity. But I shall leave those two Families to the Poets who have enriched their Tragedies with their *Furies*.

Paryſats's *injustice to her eldest Son, and preferring her younger was the cause of the ruine of the last, and of great bloodshed.*

Paryſatis Queen of *Persia*, having two Sons *Artaxerxes* her Eldest, and *Cyrus* II. and perceiving *Cyrus*, to be the most promising of the two, she endeavour'd by all means, to raise him to the Throne of *Persia*, notwithstanding that *Artaxerxes* her first Born, had Succeeded to his Father, and was possess'd of the Kingdom: And so she having hired Ten Thousand mercenary Souldiers from *Greece*, and *Cyrus* being strengthned with a great Army besides, fought unfortunately with his Brother; in which Battel tho' the *Græcians* not only kept their ground, but also defeated that Wing of the Army which they engag'd, yet *Cyrus* was killed by his Brother, while he was Fighting against him; and his whole Army, consisting of above 100000 men besides, were utterly destroy'd, as *Xenophon* tells us, who in that Expedition commanded the *Græcians*, and made them a safe retreat from the extremity of *Persia*, being an excellent Commander, who deserv'd best to Succeed that great *Cyrus*. So *Paryſatis* while she endeavours to raise her youngest Son to his Brother's Throne, contrary to the right of *Primogeniture*, loses him and all his Army. ‡ The *Lacedæmonians* had been Govern'd by one King, but when *Aristodemus* had ordered that his Sons, *Procles* and *Euristhanes* shou'd Reign together, they cou'd not agree matters between themselves, which Dissention gave that up start *Lycurgus* an opportunity, to wrest the Kingdom from them both, and to change the Form of the Government of that State, and to put all the Power into the Hands of the people.

‡ Pray w Bream of Artaxerxes?

The Kingdom was lost to the Sons of Aristodemus, *who made his 2d Son equal to his Eldest.*

This was excellently done by Lycurgus

Corbis *and* Orsua *killed each other.*

And that Posterity might not altogether forget the example of *Eteocles* and *Polynices* we have parellel Instances, *Africanus Major* being Judge, particularly in the Brothers *Corbis* and *Orsua*, who Fought against one another for the Succession, and so obstinately, that they would submit to no other Arbitrator either of the Gods or of Men, but only to *Mars*. *Agathocles*, the Grandson of *Agathocles* the Tyrant of *Syracuse*, killed his Father who endeavour'd to assume the Government. And *Lycurgus* was under no restraint from Murdering the true Heir, but that he would not Stain himself with so Horrid a Crime: For his Eldest Brother *Polydectes* King of *Sparta* being Dead, and leaving his Wife big with Child, after she had brought forth her Son *Charilaus*, Engag'd to *Lycurgus* to Murder the Child, that he might Succeed, on condition that he would Marry her.

Valerius Maximus Lib. 9. cap. 11.

Agathocles *killed his Father to Secure his possession of* Sparta.

Died of Hydrop[sy] Son-in-Law & Successor of this Murderer

Instances in Ægypt *of disinheriting the rightful Heir, and the bad consequences of them.*

Ægypt furnishes us with two Famous instances to the same purpose, when *Ptolemæus Lagus* violating the Law of Nations had given the Kingdom to the Younger of his two Sons, his Eldest Son was thereby tempted to violate the Law of Nature, by killing his Brother afterwards. And *Ptolemæus* who was called *Physcon*, being over persuaded by his Wife, prefer'd his Younger Son to the Kingdom, and past by his Eldest; but after their Father's death, the people did Justice to the Eldest by advancing him to his Kingdom, and driving away the Younger Son: tho' *Pausanias* gives a different account of this story [a].

Which Title had the father himself

[a] *In* Atticis.

Cleopatra *preferr'd her younger Son and was killed by him.*

Ptolemæus Philometor the eighth King of *Ægypt* from *Ptolemæus Lagus*, being design'd Successor to the Kingdom by his Father, his Mother took care to get him sent out of the way to *Cyprus*, while his Father was alive; and in hopes that *Alexander* the Younger of the two Sons, would be more Obsequious to her, she us'd all her Interest with the people, that they might make her Younger Son *Alexander* King; but when she could not pre-

prevail with them to do it, ſhe accus'd him of having attempted to Murther his Mother, and brought ſuch probable and plain Signs of it, that the people having almoſt killed *Ptolemy*, they recalled *Alexander* to be their King. But *Cleopatra* did not long eſcape the deſerved Puniſhment of her Crime; for her Son *Alexander* whom ſhe had by wicked arts rais'd to the Kingdom, killed her to whom he ow'd his Advancement. Upon the diſcovery of this horrid Crime, *Ptolemy* who, to avoid the hatred of the people, had retired to *Cyprus*, return'd and obtain'd the Kingdom.

[b] Pauſanias *in* Atticis.

Pruſias [b] King of *Bithynia* having projected to prefer his Younger Sons which he had by his Second Wife, to his Eldeſt Son and Heir of the Kingdom, he form'd a deſign to kill his firſt Born Son *Nicomedes*, who had been Baniſh'd by his Father, *Nicomedes* having diſcovered the Plot againſt his Life, as well as of deſinheriting him, returns from his Exile and poſſeſſes himſelf of the Kingdom, and kills his Father, a Crime not leſs unnatural, than that which had been reſolv'd on againſt himſelf.

Pruſias *kill'd by* Nicomedes *his firſt born whom he intended to diſinherit.*

Pyrrhus King of *Epirus* (who was famous for Waring againſt the *Romans*) having order'd by his laſt Will, that which ſo ever of his Sons had the ſharpeſt Sword, that is, was the ſtouteſt man, ſhould Succeed him in the Kingdom. The people, notwithſtanding this laſt Will, made his firſt Born Son King; for they thought it unjuſt to break through the Laws of Nature and of all Nations, tho' it were done, in favour of one that had much better Accompliſhments, both of Body and Mind.

The Epirots *travers'd the laſt will of* Pyrrhus, *becauſe it was againſt the right of* Primogeniture.

What ſhall I ſay of the Brothers *Antoninus Caracalla* and *Geta*? The *Roman* Empire was equally bequeath'd to them both, by their Father *Severus*, but *Caracalla* was never at quiet, untill he killed his Brother *Geta* in his Mothers arms, with which ſhe endeavour'd to protect him.

Geta *kill'd becauſe he claim'd an equal right to the Empire with his eldeſt Brother* Caracalla.

Spain affords us perhaps but few inſtances of this nature, yet ſome it does. *Siſenandus* after the Death of *Cintilla* or *Swintilla* his Father, invaded the Kingdom unjuſtly, without the conſent of the Grandees, having firſt excluded, and afterwards killed his Brother *Swintilla*, who was the true Heir of the Kingdom, *Dagobert* King of *France* to compaſs his own ends, Encouraged and Aſſiſted this *Siſenandus*, on purpoſe that the *Goths* might be Embroiled, and deſtroy one another, with their Inteſtine and Civil Wars. But let us ſee what Benefits accrued to the Kingdom of the *Goths* thereby, and by means of this *Siſenandus*, after he Murther'd his Brother? For whilſt the *Goths* were employ'd wholly in deſtroying one another, *Dagobert*, in that *interim*, poſſeſs'd himſelf of all *Aquitain*, (which then and at this day is called *Gaſcony*, or *Gottuſſcania*, from *Scania* the Country of the *Goths*, and was truly then a part of the *Gothiſh* Kingdom in *Spain*) and united it to his own Dominions. That Country which is ſo extraordinarily Fruitful and Delightful, that it cannot be ſufficiently praiſed, has ever ſince that time been loſt to *Spain*, and from that time, never owned any other, but the Kings of *France* for their Soveraigns. This was all the benefit, that the *Goths* receiv'd by the Ambition of *Siſenandus*: tho' the Counterfeit *Doleman* makes him one of his Heroes and extolls him highly.

Siſenandus *an Uſurper was guilty of* Fratricide, *embroil'd the Kingdom, by which means all* Aquitain *was forever loſt to* Spain.

Henry King of *Caſtile*, as is evident from the Hiſtory, after he had Murder'd *Peter* his Brother and Soveraign Lord, and tho' he himſelf was only a Baſtard Son of a Whore, yet he uſurp'd the Kingdom, ruin'd the Revenue of the Crown, which he beſtow'd to gain the favour of the Grandees and the people, being aſſur'd, that they who were Sharers of the Spoils and Depredations, which were made of the publick Revenues, would never attempt, or ſuffer a Change of the *State*. And from that time the Subjects of *Caſtile*, were forced to pay heavy Taxes, to make up what

Henry *of* Caſtile *murder'd his Brother, uſurp'd the Kingdom, and deſtroy'd the Crown revenue.*

what this *Henry* had impared, and Squandred away of the Royal Patrimony.

The Hungarians *care in preserving the right of the* true Heir, *or* Primogeniture.

In *Hungary, Ladislaus* being Childless, and conceiving greater hopes of his Younger Brother *Alme*, and having an aversion to *Coloman*, who was Elder than *Alme*, he endeavour'd to disable the first from being his Successor, and to advance the Younger. And for compassing his design, he makes them put *Coloman* into Sacred Orders, afterwards sends him away to *Paris*, and causes him to be shut up in a Monastery, that he might leave him no hopes of Inheriting the Kingdom. But the *Hungarians*, after *Ladislaus*'s Death, refus'd utterly to own *Alme* for their King, because they abhorr'd to stain themselves with a Violation of the Law of Nature, and the Law of Nations. And altho' *Coloman* was extreamly deform'd in his Body, being a Stammerer, blind of one Eye, Lame, and Crook-back'd, yet they agreed to have him King rather than *Alme*; and for that end they obtain'd of the Pope, Liberty for him to lay aside his Orders, and to marry a Wife. This instance shews plainly *How deeply a kind of natural desire after the right Heir is implanted and grafted in the minds of Men.*

Philip Mary, the last Duke of *Milan*, of the Family of *Galeazzo*, being Dead, and his Sister *Valentina* the sole Heiress of that Dutchy, having been Married to *Charles* Duke of *Orleans*, he himself having left no Issue but a Bastard Daughter called *Mary*; The people growing bold with hopes of new Liberty, formed a design of changing their Government, into an Aristocracy or a Democracy. But whether this Duke order'd it on his Death, or did not, this Bastard was Married to *Francis Sforza* who was also a Bastard, and by the last Will of *Philip* as some say, he laid Claim to *Milan* as Heir of it, after the same manner and with as much Justice, as the *Conquerour* claim'd a Right to *England*, by the Will of *Edward* the *Confessor*. He set upon the Citizens of *Milan* in a Hostile manner, laid close Siege to their Town; and straiten'd it for want of Provisions to that degree, that he forc'd the Inhabitants to Surrender it, and to accept of him for their Duke, passing by the true Heir, *Charles* Duke of *Orleans*. But behold the Issue, the Family of *Sforza* had but a very short Reign there, for under the Reign of *Lewis* XI. the Nephew and Heir, of Duke *Charles*, the City was taken by the *French*, and afterwards by *Francis* I. King of *France*. And tho' it was after that, retaken by *Charles* V. yet all of the Family of *Sforza* were for ever Excluded; and *Milan* was made a Fief of the Empire, and given by *Charles* V. at that time Emperour, to his Son *Philip*, and belongs to his Family to this day; all *Italians* being excluded from the Administration of the Government of it. And so the *Milanois* for their injustice, in rejecting the true Heir, first fell under the Calamities of War, and at last under a Foreign Power and Jurisdiction.

Milan *by rejecting the* rightful Heir *fell under a foreign Power.*

In *France Lewis* called the *Saint*, being induced by the pleasant Allurements of his Wife, preferr'd his third Son *Charles* to *Lewis* his first Born; this unjust deed of his, kindled a Civil War over all the Kingdom of *France*.

St. Lewis's *preferring his Third to his first born Son, occasion'd a bloody civil war.*

In the *Ottoman* Family, how many Parricides, what Fratricides have been commited? for tho' the Empire of the *Turks* belongs to the *Ottoman* Family, and none but the Sons or near Relations of it, are rais'd to the Imperial Dignity, yet there is room for the *Pretorian bands*, or *Janizaries* often to bestow it, on any of the Family, as they please; and they make him Emperour, who gives them most Money, and the greatest Bribes. *Selimus* I. tho' the Youngest of *Bajazet's* Children, yet having got the favour of the *Janizaries*, not only Murdered his Father *Bajazet*, but his own Bre-

The violation of the right of Primogeniture *among the Turks the true cause of so many* Parricides *and* Fratricides *among them.*

Brethren alſo, with ſeven of his Nephews, that had been Born to them. *Mahomet* III. who now Reigns, caus'd his Nineteen Brothers, to be put to Death, and ſaid that he did it, by the Conſtitution and Laws of the Empire. A full year wou'd not ſerve to reckon up Inſtances to my purpoſe, from the Hiſtories of other Nations, but I ſhall ſtop and cut ſhort here, that I may mend my Pace toward greater matters; and the rather that ſo many examples of the great Miſchiefs, which the neglecting the Right of Succeſſion brings along with it, are to be met with, in thoſe Chapters in which I have conſidered the inconveniences of *Election* or *Elective Governments*.

CHAP. XII.

Whether the Succeſſion of Kingdoms, was Inſtituted by God himſelf; and proceeded from Divine Right.

WE muſt therefore apply our ſelves to God, who only and alone can do all things, and earneſtly implore His direction, leſt we be blinded in the clear light, and adminiſter occaſion to ſo great Calamities in this our *Britain* for the future. It is then to be inquired, with ſo much the more diligent care and Inſpection, who is the true and Lawful Succeſſor of this moſt flouriſhing Empire; And who he is, who as well by divine as humane *Right*, is to be called to it after the deceaſe of the moſt Serene *Queen*? This Inquiſition, I ſay, is to proceed upon *Right* and we muſt ſee firſt, what *Right* does determine in the point of Succeſſion, and what the cuſtom of the Kingdom of *England* has introduced, which with them has the force of a Law? For ever ſince the Divine Oracles of the Prophets have been ſilent, that only deſerves to be eſteem'd and receiv'd, as the voice and mind of God which is contain'd in the Holy Scriptures, or what is determin'd and eſtabliſh'd according to Right, by Lawful Judgment, in Lawful Judicature in ſuch caſes, as are not ſufficiently provided for in thoſe, for ſuch *Judgments are the Lords, And not mans*, as the Prophet tells us.

Lawyers commonly divide their Laws into three ſorts, to wit, the Law of *Nature*, the Law of *Nations* and the *Civil*, which was properly the *Law* of the *Roman* Citizens, and which, for it's exceeding great Equity, is at this day receiv'd by moſt Nations; and has alſo got the Name of *Jus Gentium*, or the Law of Nations. But the Civil or Municipal Law, is that which obtains and is used by the Citizens or Subjects of one Kingdom in their intercourſe with one another. We cannot be blam'd, if to this tripartite diviſion, we add a fourth member to wit, the *Divine Law*, which being receiv'd from the mouth of God, Speaking to and commanding his People, was given to them to be kept, yea the dignity of this Law does far exceed and outweigh all other Laws. In the beginning of *Iſaiah*, thus ſaith the Lord, *Hear O Heavens, and give Ear O Earth: for the Lord hath ſpoken*, whoſe word

Auro

Auro purior eſt, auro quod fuſile fecit
Septima flamma coquens,
Dum fæx in fumos exploratore Camino
Craſſa abit in cineres.

God's Word is purer far than Golden Ore,
When by repeated fire refin'd,
When the dull droſs appears no more,
But ſinks in aſhes or exhales in Wind.

'Twould be high preſumption in us to ſearch or enquire for the reaſon of this Divine Law, when the Lord who is the Law-giver is not only infinitely and eſſentially juſt but alſo Juſtice it ſelf, and *overcomes when he is Judged*, and his will declared in any text of Scripture, is a Law to us. And that ſaying of *Pythagoras*, αὐτὸς ἔφη *He ſaid it*, from him alone is enough. That we may therefore, draw what is *Juſt* and *Right* from their very Source and Fountains; we muſt conſider what the *Law of God*, what the Law of *Nature*, what the *Law* of *Nations* or the *Civil Law*, and laſtly what the *Municipal* Laws of *England*, appoint with regard to this Succeſſion to Kingdoms, and this we ſhall do briefly, if God permit, allowing a Chapter for treating of each of theſe kinds of Laws in order. And if I am not deceiv'd, this moſt true propoſition or inference will be the Iſſue, and reſult of all, that *upon the Death of the former King, whoever is next in Blood, ought to Succeed to the Kingdom.* And that the the truth of this may fully appear, from each of the Laws which I have now nam'd,

Pſal. 51. v. 4.

Firſt we ſhall have recourſe to the *Divine Law*, and we are obliged to mind carefully what it commands us to do, or what is propos'd in it, for our imitation; and ſo much the more that the Kingdom of *England* is properly called the Kingdom of God: Neither are the examples which we are to bring as propos'd to us by the *Divine Law*, unleſs they be found to be Inconſiſtent with the general Rule and Analogy of Faith, to have leſs weight, than thoſe things which are expreſly commanded us; at leaſt it may be hop'd, that our Adverſaries, who urge nothing againſt us, but examples, and even ſuch as are ill choſen and not to the purpoſe, will not quarrel with us, tho' we ſhould make uſe of ſome Inſtances for Confirming our propoſition, though they ſhould not be altogether ſo appoſite. Our Adverſaries preſs us mainly, that no plain and expreſs place of Scripture can be brought to prove, that this Succeſſion to Kingdoms, was inſtituted by God. For there is no mention made, that *Melchiſedec's* Children did Succeed him in the Kingdom. That I grant is true. But yet it's evident, that at that time Kingdoms were Hereditary. For beſides the *Aſſyrian* Monarchy, which was of long continuance, and deſcended from Father to Son, *Abimelech* King of *Gerar* is an undeniable inſtance. For when he made a Covenant with *Abraham*, which was ſolemnly Sworn to, *Abraham* was not only obliged to do no harm to *Abimelech* himſelf, but it is alſo in plain words expreſly provided, that no injury ſhall be done to his Son, nor to his Son's Son, by which may be underſtood, his Lawful Heirs for ever, who ſhou'd Reign after him. And that not as Private men, but as Princes of the Country, and Succeſſors in the Kingdom; to whom *Abraham* by vertue of that Covenant, was to do no harm, nor to their Country wherein he had Sojourn'd,

Polydore Virgil.

Succeſſion of Children to their Fathers Kingdoms prov'd from the Sacred Hiſtory.

Gen. XXI. 22, 23, 24. To this *Abimelech*, another of the ſame Name did Succeed, who moſt probably, was the Son of the former; for had he been the ſame perſon, that made that Treaty with *Abraham*, he would not have offer'd to wrong *Iſaac*, contrary to his Oath, wherewith he confirm'd the Covenant made with *Abraham*. He made the ſame attempt againſt *Iſaac*, that his Father did againſt *Abraham*, but by another Covenant, confirm'd by the like Oath, Peace and Friendſhip was reſtor'd and re-eſtabliſh'd between them. *Abraham* was but a Sojourner in a ſtrange Land, tho' he was Rich and Powerful: But when God had promis'd that his Poſterity ſhould poſſeſs the Gates of their Enemies, and that he ſhould be Heir of the World, and other Kingdoms ſhould be in Subjection to them; he gave Gifts to his other Children and ſent them away: But he obtain'd from God to *Iſaac* alone the Promiſe of the Kingdom. Whenever this Promiſe was renewed by the Lord to *Iſaac* and *Jacob*, it ever had this added to it, *and to thy Seed*; intimating to all, that the Hereditary Succeſſion of a Kingdom, was then inſtituted by God, among his own people whom he choſe from among the Nations, as his own peculiar Inheritance. We find that when *Jacob* before his Death, perceiv'd that the Kingdom of *Iſrael* was to deſcend to the Poſterity of *Judah*, he foretold at the ſame time by divine Inſpiration, that the Kingdom ſhould be Hereditary. For ſays he, *the Scepter ſhall not depart from* Judah, *nor a Law-giver from between his Feet*, or from being of his Seed, *until* Shiloh *come*; or he who was to come, the Meſſias. *Joſephus* ſays, that the *Pharaoh*, who oppreſſed the Children of *Iſrael* was the great Grandſon of *Pharaoh*, whoſe dreams *Joſeph* the Patriarch did interpret; and by whom he was ſo highly eſteemed. But if theſe Inſtances which are now brought, ſhould not appear clear nor ſufficient enough, at leaſt in the opinion of many, to prove and confirm our propoſition, let us go on to more evident, and unexceptionable Proofs.

Hereditary Succeſſion in Kingdoms inſtituted by God.

God appointed two Orders for Government, and both of them Succeſſory among his own People.

After God had delivered his own people from the *Ægyptian* Bondage, he appointed two orders of Dignities or Magiſtrates among them, *viz.* the Kingly and the Prieſtly, and both of them Hereditary. As for the Prieſtly dignity, he inſtituted it ſo at firſt, that the Son was always to Succeed his Father in the Prieſthood. So that the Prieſthood or Pontifical Order after the death of the former Prieſt, devolv'd always upon his neareſt Kinſman.

1. That of the Prieſthood:

This order of Succeſſion was never interrupted until *Ariſtobulus* thruſt out his Elder Brother *Hyrcanus*, at once both from the Prieſthood and the Royal dignity. But it was, not long before this *Ariſtobulus* met with the due reward of his Crime, under *Pompey* the great, as I have already obſerv'd. This is the firſt Order of Succeſſion, which God appointed, I mean, in the Levitical Prieſthood; by which the Children were always to Succeed their Parents; tho' in performing their Sacred Offices, and Bloody Sacrifices, little or no reaſon can be given for it.

The Second order of Succeſſion reſpects the Kingdom, and temporal Eſtates.

The other order that God appointed was in the Succeſſion to the Kingdom, and to temporal Eſtates. This concerning the rights of Succeſſion, ſeem'd at firſt to be an intricate caſe, untill the Daughters of *Zelophehad* their claim obliged *Moſes* to conſult God about it, no particular Law having been then given the Children of *Iſrael*, about Succeſſion in things of that nature. *Moſes* having ask'd Counſel of God, the Lord appointed a Law concerning Succeſſion, which was ever to be obſerv'd, for the future. The true State of the Caſe, was this. *The Daughters of* Zelophehad *ſtood before* Moſes, *and* Eleazar *the Prieſt, and before the Princes,*

Numb. 36.

the

the chief of the Fathers and all the Congregation of the Children of Israel: *and said, our Father died without Sons, or male* Off-spring, *and that it was not right, that their Father's name should be done away, from their Family, because he had no Sons.* And therefore *they desire of* Moses, *that the Inheritance, which their Father had tho' only in prospect, might be given to them among the Brethren of their Father, the Families of the tribe of* Manasseh. *Moses* brought their cause before the Lord, and the Lord return'd this Answer. *The Daughters of* Zelophehad *spake right*, their petition was just; *and thou shalt surely give them, a possession of an Inheritance, among their Fathers brethren; and thou shalt cause the Inheritance of their Father, to pass unto them. And thou shalt speak unto the Children of* Israel, *after this manner, if a man die, and have no Son, then shall ye cause his Inheritance to pass unto his Daughter. And if he have no Daughter, then shall ye give his Inheritance unto his Brethren. And if he have no Brethren, then shall ye give his Inheritance unto his Fathers Brethren. And if his Father have no Brethren, than shall ye give his Inheritance unto his Kinsman, that is next to him of his Family, and he shall possess it: and it shall be a Statute of Judgement.* &c. and in the 36 Ch. *The Inheritance shall not be transferr'd from one Tribe of the Children of* Israel *to another*, or as we say, from one Family to another. This Ordinance and Commandment of God in the Case of Succession, is clearly propos'd to us, and is of the nature of those Precepts, which do continually bind, and oblige us. This Law of Succession, commands, first, that when any man dies, his Children shall Succeed to him. And if his inheritance be not to be divided, then his first born (whose right God always favours) shall possess it. But if he have no Sons, then the Succession devolves to his Daughters. And if he have neither Sons nor Daughters, than his Inheritance is transferr'd to his Brothers, if he has no Brothers, then his Fathers Brothers, (in which words his Aunts or Fathers Sisters are comprehended,) are to Succeed him in his Estate. But lastly, these failing too, he who is his Kinsman, and next in Blood to him, has right to his Inheritance. Nothing can be more plainly delivered, than the Law and Rights of Succession, and the Order, which is to be kept in it, are. And every thing makes for the Succession of the next in Blood, to the Inheritance of the deceas'd. The resolution then of this Case is easy, if we yield our assent to God speaking to us who, when He speaks commands the Heavens to hear, and the Earth to give ear and tremble. Neither let any man flatter himself, as if he was to escape the Divine Vengeance, if he presumes to overturn, what God has Instituted.

Numb. 27.

A perpetual Law, Concerning Succession from God, and delivered by Moses. ver. 11.

But that none may think that this Order of Succession concerns only private Families, I shall here again recite that place in *Deut.* 17. 15, 20. concerning the manner and choice of the King. There the Lord, allows not to his People, the free choice of their King, but commands them to chuse him, or *to set him over them in any wise whom the Lord their God should chuse*, (who now makes use only of Ordinary Succession instead of extraordinary Designation or Election.) In that place God is pleas'd to appoint him, what he was to do, and what he was to avoid, adding lastly, *That he may prolong his days in his Kingdom, he, and his Children in the midst of* Israel. The adding these words (*and his Children*) makes it evident, that the Kingdom, was to be Hereditary, otherways there was no occasion, to make mention of his Children.

The settled Order of Succession respects the Royal family as well as private Families.

The

In the days of Gideon *Kingdoms were Hereditary even among God's people.*

The Sacred Hiſtory bears witneſs, that in the days of *Gideon*, the Children of *Iſrael* aim'd at having a King. For when *Gideon* had delivered *Iſrael* from the *Midianites*, they deſired *him to rule over them, and his Son and Son's Son.* Judg.viii. 22. But *Gideon* refus'd toReign over them. Nevertheleſs this affords an unanſwerable argument, for Kingdoms being Hereditary at that time, when the People made an offer of the Kingdom, not only to *Gideon*; but alſo to his Poſterity for ever. And we have a plain example of the Government of that People, its being changed by *Abimelech*, and the Judgment which enſued on it. For whereas the memory of *Gideon*, was greatly eſteem'd by all the people, *Abimelech*, who was his Baſtard Son by his Maid-ſervant, having perſwaded the men of *Shechem*, that the Kingdom was due to the Poſterity of *Gideon* for his great Merits; and yet that it was not expedient, that all his Children ſhould Reign over them, but only one; ſeeing nothing can be more fatal toa State, than πολυκοιρανία or the Multitude of Kings, is; he ſoon prevail'd with the *Shechemites* to make him King, and for the ſupporting his Dignity and Office, they ſupplied him with Money to hire mercenary Souldiers. But behold, what was the Iſſue of this Election? Firſt, this moſt Cruel wretch Barbarouſly murder'd his Brethren, the Sons of *Jerubbael*, threeſcore and Ten perſons. Secondly, *Jotham* the Youngeſt, and who only was left, having upbraided the men of *Shechem* for their baſe Ingratitude to *Gideon* and his houſe, and that if they were to have Kingly Government, the Kingdom ought not to have been given to a Baſtard, but to one of his Lawful Children; at laſt he imprecates, that for their Ingratitude, Fire might come out from *Abimelech*, to conſume the *Shechemites*, and the Houſe of *Millo*; and again, that a Flame may break out, from the men of *Shechem*
Judges ix. and the Houſe of *Millo*, and devour *Abimelech*. And God hearken'd to his juſt Prayers; for God ſent an Evil Spirit between *Abimelech* and the men of *Shechem*, Says the Text, and it raged to that degree between them, that in the firſt place, *Abimelech* Slew all the *Shechemites*, who had made him King, deſtroy'd the City, and Sowed it with Salt, as was cuſtomary in thoſe days, when they determin'd that the City which they ras'd, ſhou'd never be rebuilt, and his Fury roſe to that height, that he ſpared not the Temple, to which the remainder of the men of *Shechem* fled, but ſet it on Fire, and deſtroy'd it, and a Thouſand Men and Women in it. But it was not long, before this moſt wicked Wretch had his due Reward; for after his Three years moſt troubleſome Reign, when he had Encamped againſt *Thebez*, and endeavour'd to take the Tower of it; he was killed by the hand of a Woman, who caſt a Piece of a Mill-ſtone upon his Head, which in thoſe days was accounted a moſt Shameful Death. Such are the Fruits of Election! the Sacred Hiſtory ſets before us, ſuch Rewards for thoſe who are fond of Elective Governments, to wit the Deſtruction both of the Electors, and of the Perſon whom they Elect to be their King, the overthrow and burning of their Cities and ſtrong holds, and the Condemning the Land to perpetual Barrenneſs; intimated in this place, by the Sowing it with Salt.

Saul *reckon'd his Kingdom to be Hereditary.*

Saul did not doubt, but that according to the Law of Nations, his Son *Jonathan* was to Succeed him in the Kingdom; as appears from what he ſay'd to *Jonathan* 1 *Sam.* 20. 30. *Thou Son of the perverſe Rebellious Woman, do not I know that thou haſt choſen the Son of* Jeſſe *to thine own confuſion, and unto the confuſion of thy Mother, for as long as the Son of* Jeſſe *liveth, thou ſhalt not be eſtabliſhed, nor thy Kingdom.* To what purpoſe would *Saul* have made mention of him and his Kingdom,

dom, if it had not been the Custom then for the Succession of a Kingdom, to devolve to the Son after the Death of the Father, and he objected to him that *David* only would undoubtedly withstand his Establishment in the Kingdom: For he knew very well from *Samuel* that God had appointed *David* to be King over his people.

The Kingdom was hereditary to the house of David.

David had not only the Kingdom of *Israel* promis'd him, from the Mouth of God, by the Prophet *Nathan*; but it was also Establish'd and Confirmed to him and to his Family, as their *Inheritance* for ever. For the Lord made a Covenant with *David* in full form; the Tenure and Purport of which Stipulation is plainly delivered to us in *Psal.* 89. *I have Sworn*, says the Lord, *to my Servant* David. *His Seed shall endure for Ever*; *and his Throne as the Sun before me*, &c. That is, I have Sworn to my Servant *David*, that I will continue his *Seed* or *Posterity*, on the Throne of their Father, and confirm the Kingdom to them. My benignity and goodness will I continue to his Family. *His Seed will I make to endure for ever: and his Throne as the Days of Heaven.* Tho' his Children should forsake God's Law, he threatens to Chastise them for their iniquities. Nevertheless he Promises to observe the Covenant with *David*'s *Seed* for ever. He promises the Dominion over all other Nations, and that it should continue for ever: And he confirm'd his Covenant, with an Oath, and Swore by himself (there being nothing else so great and Holy, by which he could Swear) The divine Psalmist repeats the same things, or to the same purpose *Psal.* 132. *The Lord hath Sworn in truth unto* David, *and he will not turn from it, of the Fruit of thy Body, will I set upon thy Throne.* And as our Countryman *Buchanan* Paraphrases it,

Psalm. 89.

Quod si posteritas servet mea fœdera, pactis
Si steterit, leges si non temerarit avitas,
Nulla dies solio, vis nulla extrudet avito
Et natos Natorum, & qui nascentur ab illis.

If thy Posterity shall keep
The Covenant with 'em that I make,
If they perform their part and ne'r
The Laws, I give them shall forsake;
No length of time, or force of Arms,
Thine Heir shall from his Throne detein,
But such as of thy Loyns are born
In David's *right shall always Reign.*

So when God had propos'd to accumulate his Blessings on *David* he promis'd a *Successory* or *Hereditary* Kingdom to him, and to his Children after him, and that there should always be a King in *Israel* of his Posterity. And *David* himself oft-times calls the Kingdom of *Israel* his own Inheritance. Tho' *Abijam* was no good King, yet after his Death, the Lord for the sake of his Servant *David*, did give him a *Lamp in Jerusalem*, and did set up *Asa* to Succeed his Father *Abijam* in the Kingdom.

God threatens it as a Judgment on wicked Kings, that they shall have none to Succeed them.

On the other hand, when God withdraws himself from Kings, or is displeas'd with them, he threatens them with that heavy Judgment, that he would leave them none to Succeed them. *Jeroboam* is an Instance of this. 1 *Kings* XIV. 10. *I will bring Evil upon the House of* Jeroboam, *and will cut off and take away the Remnant of the House of* Jeroboam, *as a man taketh away*

away Dung from the face of the Earth. To what purpoſe was this Commination had it not been the Cuſtom of Kingdoms in thoſe days, that Children did Succeed to their Fathers? What made *Athaliah*, after her Uſurping the Kingdom, deſtroy *all the Seed Royal*? It was no doubt becauſe ſhe knew, that the Succeſſion in that Kingdom, was due to the next Heir of the Blood Royal, and ſhe was afraid that he would recover his *Right* from her. Why is mention ſo often made, of the Seed or Blood Royal, if no Privilege or Preference was due to it? And what other Privilege had the Royal Progeny, but their *Right* of *Succeeding* in the Kingdom? Who ever did take notice, of the *Conſular*, *Prætorian* or *Dictatorian Blood*, or of the Poſterity of Uſufructuaries, or bare Adminiſtrators? God made *Saul*'s Kingdom to laſt only for his Life, and would not ſuffer it, to deſcend to his Heirs, by way of Puniſhment, for his Tranſgreſſing the Commandment of the LORD. When God was to reward the Service that *Jehu* did in deſtroying *Jezabel*, and the Off-ſpring of *Ahab*, and yet was not to deferr long, the Judgments which he had determin'd to bring upon *Iſrael* for their great Wickedneſs: *Thou ſhalt Reign, ſaith the LORD, thou and thy Sons, to the fourth Generation*, 2 *King*. X. 31. 'Tis evident therefore, that the Bleſſing of the LORD accompanies Succeſſory and Hereditary Kingdoms, but his Diſpleaſure and Indignation appears againſt Kingdoms which are only for Life. The Light and Lamp of the LORD is promis'd in the Succeſſion of Children to their Fathers Throne, but confuſion and darkneſs in Election. It concerns therefore our Neigbours to employ their utmoſt care, that this Light, or the Bleſſing of the LORD may long continue and ſhine upon, and among his people.

After the diviſion of the Kingdom of *Iſrael*, upon the death of *Jehoſhaphat*, *Jehoram* his Son Succeeded to his Father, and the reaſon is given in the text, *becauſe he was his firſt Born*, 2 *Chron*. XXI. 4. Theſe things are remarkable in *Jehoram*. Firſt, that the Succeſſion of the Kingdom was Hereditary. For the reaſon, why *Jehoram* was made King does plainly evince it, and leaves no place for cavilling: *Jehoram Succeeded his Father, becauſe he was his firſt born*. And ſo a reaſon is given for the thing, a reaſon I ſay, from *Right*, as if he had ſaid, *Jehoram* was Succeſſor to his Father, becauſe it was his due by *Divine right*, he being the *Firſt born*. The like reaſon is given for *Ahaziah Jehoram*'s youngeſt Son's Succeeding his Father; becauſe all his Eldeſt Sons were Slain by the *Arabians*. Theſe Inſtances intimate to us not only, that the Succeſſion of Children to their Fathers, was receiv'd among God's peculiar people, but alſo that the Order of Succeſſion was appointed, *viz.* that the younger Son was ſtill excluded by the Eldeſt. Secondly, we are to take notice in the Inſtance of *Jehoram*, that the Kingdom could not be divided: For when *Jehoſhophat* gave the Kingdom to *Jehoram*, and knew that by the Laws of God, he had a right to the Succeſſion; *he gave to the reſt of his Children great Gifts of Silver and Gold, and precious things, with Poſſeſſions of Fenced Cities*, goodly Poſſeſſions, *but left the Kingdom intire to his firſt Born*; becauſe he was his *Firſt-born*. And for that very reaſon, he was preferred to all his Brothers, which were many; and that was done according to the Law of God, not only concerning *Succeſſion* of Children, but alſo the order in which they were to Succeed. And after *Ahazias* the Son of *Ahab* died his Brother *Jehoram* Succeeded him. A plain Inſtance of *Collateral Succeſſion*, (which is now moſt called in Queſtion) and we have the reaſon of it in the text, becauſe he had no Son to Succeed him. For had he had a Son, or any deſcended

2 Chron. xxii. 1.

2 Chron. xxi. 2, 3.

of

of his Son, the Succession had devolv'd to him, and not gone to the Collateral line: This kind of Succession obtains only in Hereditary Kingdoms.

When the King of *Moab*, was overcome in Battel, by the Kings of *Judah* and *Israel*; he sacrificed his *First Born* Son, as the sacred History says, who was to Succeed him. Here the Scripture affirms plainly that the *First Born* should Succeed him in the Kingdom, 2 *Kings* iii. 17. That word, (*he should*) imports, that he had a right *to reign in his stead*. Neither *should* he, nor could he have Succeeded him, unless the Laws had authoris'd his Succession. That exception of his being under age could not have hindred it. For God has approv'd of the Succession of Minors to the Kingdom, as in the case of *Jehoaz* in the Seventh year of his age, of *Josias* in the Eight and of *Mannasseh* in the Twelfth; who as I have already observ'd, began their reigns under age. Now if the People had a right to chuse their Kings, or if Kingdoms had not been Hereditary and Patrimonial in those days, and appertain'd, by the Laws, to the Sons and Heirs of the Royal Families; they could never have passed by so many well accomplish'd and wise Rulers and great men in *Judah*, who had great skill and experience in Government, which is the main thing in a King; and have chosen Boys to Rule over them, and to undertake the weighty affairs of ordering the administration of Justice, and leading forth the People in their Wars. But they knew well the great impiety of violating the Order of Succession, which God had once establish'd: And that it was not Lawful for them to chuse any, besides the true Heir, for their King. That saying of *Hannah* the Mother of *Samuel* is of all other Testimonies from Scripture the most clear and Manifest, and which I have cited already 1 *Sam.* II. 8. *The Lord raiseth up the poor out of the Dust, and lifteth up the Begger from the Dung-hill, to set them among Princes, and to make them inherit the Throne of Glory.* And she subjoyns a reason, *because the Pillars of the Earth, are the Lords*: (not the Peoples,) as *Doleman* affirms) *and he hath set the World upon them.* That most religious Woman acknowledged, that it was by the Institution and blessing of God that Kingdoms were Hereditary. The following verse makes it evident, that she is to be understood, as speaking of Kings, *for the Lord*, says she, *shall give strength unto his King, and exalt the horn of his anointed.*

The Heirs being under age does not hinder him from Succeeding in the Kingdom.

When the Kingdom of *Israel* came to be divided, the Tribes of *Judah* and *Benjamin* followed the Family of *David*, and the rest of the Tribes went after *Jeroboam*. Some things here deserve to be taken notice of: For example, tho' in the Kingdom of *Judah* there were many wicked Kings, as *Manasseh*, who was an Idolater and filled *Jerusalem* with Blood; yet the Rights of Succession were never violated, but the Kingdom always descended from Father to Son: It was otherwise in the Kingdom of *Israel*, where the people chose and advanced Kings upon the death of their former Kings. But what was the issue? The Kingdom of *Judah* continued untill the Destruction of *Jerusalem* and the *Babylonish Captivity*, it was prosperous and flourish'd: the Kings of it were Valiant men, and which was the greatest happiness of that Kingdom, most of the Kings that reign'd over it, were good and religious persons, and the Succession was preserv'd without tumults, or strugglings about a Successor. Whereas in the Kingdom of *Israel*, we hear of nothing but continual Butcheries, Plots and Conspiracies among the People. He who Succeeded in the Kingdom, commonly stain'd himself with the Blood and Murder of his Predecessor; and

Difference between the Kingdoms of Judah *and* Israel, *the first Hereditary, the other Elective.*

and then mounted his Throne, and aſſumed the badges and enſigns of Royalty and Power, which were moiſtn'd and dyed with the Blood of the preceeding King. Neither did the Kingdom of *Iſrael* enjoy ſo great happyneſs nor laſt near ſo long, as that of *Judah* did. 'Tis a never failing Obſervation, *That Kingdoms which are Hereditary, and devolve by right of Blood, are ſtill more bleſt with happyneſs and proſperity, than thoſe in which Kings are rais'd to their place and dignity by tumultuary Elections.* God declared that he gave all thoſe Kingdoms and Countries to *Nebuchadnezzar*, and to his Son, and to his Son's Son: and commanded his People to pray always for them. Why ſhould the Lord have obliged his People to pray for the Poſterity of *Nebuchadnezzar*, while he was alive and reign'd, unleſs it was that he purpos'd that they ſhou'd reign after him?

Greater proſperity and ſucceſs attends Succeſſory Kingdoms than Elective ones.

But the truth of this propoſition concerning Succeſſion is not more evident from thoſe examples, which I have brought already from Scripture, than it is from the expreſs Words of our bleſſed LORD. Nothing occurs oftner in Sacred Hiſtory, than that Enthymem; *He is a Son, therefore Heir.* The holy Scriptures had never made uſe of ſuch an inference, unleſs it had been of neceſſary conſequence, and an undoubted axiome or maxime. For when the LORD ſpeaks to his anointed, and declares him his Son; *Thou art my Son, this day have I begotten thee.* He preſently adds, *and I ſhall give thee*, ſays he, *the Heathen for thine Inheritance, and the uttermoſt parts of the Earth for thy Poſſeſſion.* *Pſal.* II. 7, 8. Here his nomination to be his Heir, of neceſſity follows, his being owned his Son: As if God had ſaid, thou art *my Son*, therefore *Heir*: And I will give thee, the whole compaſs of the World for an Inheritance. The firſt poſition being certain, that of his Son-ſhip, the other is as certain, for by the moſt accurate rules of reaſoning, if both thoſe poſitions do not hold, neither of them do: For *ſe mutuo ponunt & tollunt.* This makes me the more admire either the Arrogance or Ignorance of thoſe men, who think that Inheritance in Empires and Kingdoms does not appertain to the Children of Hereditary Monarchs.

Succeſſion prov'd from our Saviours own words.

Arguments from the new Teſtament for Kingdoms being hereditary.

The examples, which the new Teſtament affords us (which is the Noonday light, both as to its Revelations and Reaſoning) are ſtill much more bright and clear in this caſe. For in that Parable of our Saviour *Matth.* XXI. 33. *&c.* When *the houſholder had planted a Vineyard, and ſent his Servants, that they might receive the Fruits of it, the Husbandmen took his Servants, and Beat one, and Killed another, and Stoned another.* In fine they repuls'd and Evil treated all his Servants. *At laſt*, ſays He *I will ſend my Son, for him they will Reverence.* But the Keepers of the Vineyard *or Husbandmen, as ſoon as they ſaw the Son, conſulted among themſelves; this is the Heir, therefore let us Kill him, and the Inheritance will be ours.* No doubt they Encouraged themſelves to commit this Wickedneſs, from the knowledge or inſtinct that they had from the divine Law, and the Law of Nature, that by this nefarious mean, they ſhould attain their end, for it is not to be preſumed, that they were skillful in humane Laws. Who taught them, that the Son was Heir to his Father? or that the Vineyard was his Inheritance by right of Succeſſion? They had no inſtructor but that *divina auræ particula*, that Spark of the Divinity or remainder of the Law of Nature which was ſtill to be found in the minds of men.

1. Argument from Matth. xxi.

The Second from Matth. viii.

To the ſame purpoſe is that text *Matth.* VIII. 11. where the Lord ſays, *that many ſhall come from the Eaſt, and from the Weſt, and ſhall ſit down with* Abraham *and* Iſaac *and* Jacob *in the Kingdom of Heaven. But the Children*

of

of the Kingdom shall be cast out. Which imports no more than this, that the *Israelites* to whom the Kingdom belonged by an Hereditary right, were to be cast out, or rejected. Seeing God does commonly transfer a Kingdom from one Family to another, for the Ingratitude and Sins of that Family.

But of all other Texts, that Argument which the Apostle uses *Rom.* VIII. 17. pinches our Adversaries most. *And if Children, then Heirs.* 'Tis observable in this saying, that St. *Paul* puts his Argument into an Enthyneme, so to make this an entire Syllogism one Proposition, which was understood, or suppos'd, must be supplied from the Law of God: to be sure he meant no other Law, *That every Son was always Heir to his Father*; the Text gives us the assumption, *but ye are Children, therefore Heirs.* There is a plain coherence and consistency between all the Parts or Propositions of this Syllogism. For the Apostle takes it for granted, that by the Divine Law every Son was Heir; so that Proposition being manifest or obvious to all, he had no occasion to prove it. 'Tis the common way according to the rules of disputing, when we argue enthymematically, to pass over that Proposition in Silence, which is obvious to, and confess'd by all, that we may not like Children, bring that in Question, which no Body doubts of. As for the Assumption and Conclusion, we have them clearly in the Text, neither cou'd they ever be inferr'd from any other Proposition. This Proposition then is a firm and undoubted axiome, That Children by Divine right do necessarily Succeed to and are to be called to the inheritance of their Fathers.

The Third Argument from Rom. viii.

The Author of the Epistle to the *Hebrews*, makes use of the same argument; for after he had told us, *That God had at last spoken to us by his Son*, he adds immediately as a necessary consequence, *whom he hath appointed Heir of all things*: plainly intimating, that he could not be a Son if he was not Heir at the same time: not that I would be understood to restrain this to the first descent from Parents, but it is extended to all degrees in Blood. And I have our Blessed Saviour's Authority for it: for he said, *That it is not meet to take the Childrens Bread*, that is the Bread of the Children of *Israel*, *and to cast it unto the Dogs* Mark. VII. 27. In this Scripture the name of Children appertains to all the descendants from the Stock: And if there be no descendants, in a straight line, from that Stock, then it goes to the next in Blood of the Collateral Branches.

The same prov'd from Heb. 1. 2.

Mark vii. 7.

We have another instance to our purpose from the New Testament. 'Tis in that Parable *Luke* xix. 12, *&c. A certain Nobleman went into a far Country to receive for himself a Kingdom.* He distributed talents to be used by his Servants, but I shall say nothing of the talents, because they do not concern the Kingdom, which is the thing now under our consideration. *But his Citizens hated him, and sent him a message saying, we will not have this man to reign over us.* That is we will not own nor acknowledge him for our King. but having receiv'd his Kingdom, of which he went to take possession, upon his return he took an account of the Servants, whom he had entrusted with his Money. And he adds *v.* 27. *Bring hither to me those mine Enemies, who would not, that I should reign over them, and slay them before me.* In this parable of our Lord, these things are observable. This *Nobleman* in the *Syriack*, version, is called *vir multæ cognationis*, a man of high birth, Ευγενὴς in the original, which imports that the Kingdom de-

Luke xix.

volv'd to him, upon account of his Blood and Birth; and ſo he calls it his Kingdom, before he got poſſeſſion of it, and was enſtalled in it, and they are called and were his own Citizens, who renounced him, and refuſed that he ſhould reign over them. None of theſe things can agree to an Elective King. For where Elections take place, one is not a King until he is duly receiv'd, and acknowleged by all: and before that is done, the Subjects cannot be called his Citizens, nor can the Kingdom be ſaid to be his Kingdom. And it's more than probable, that thoſe Citizens would not have choſen a ſtranger, who was unknown to them, and at ſo great diſtance from them. But if the Kingdom was Elective, he who took from the People their liberty of Election, committed a grievous and tyrannous fault, in killing them for aſſerting and defending a right, to which they had a Lawful Title. But he, who was Lord of all, ſays, that they were the Citizens of that King; and that they impiouſly rejected their King: tho' *Doleman* the *Jeſuite* affirms in many places of his Book, that they may lawfully do it. Let the unbiaſs'd reader Judge, whether he will believe the Doctrine of *Jeſus Chriſt* or the Doctrine of this *Jeſuite*.

Objection. There may be ſome, who think, that this argument *a Simili*, from the like caſe, is not always firm and concluſive; and that reaſonings from Divine to Humane things, do not always hold; ſeeing there is a vaſt

Anſwer. difference between them. But here we ſpeak of humane affairs, to wit of Succeſſion to Earthly Kingdoms, which nevertheleſs receives it's Authority from the Divine Law, and owes its Inſtitution to it. But let our Adverſaries take notice, that it is moſt certain, from the Laws of reaſoning; that when an inference is made *a Simili* or from an Argument, that from whence the conſequence is drawn, is moſt certainly true. For they could never put that for a Principle or Foundation, the truth of which could be called in Queſtion or ſubverted. I know that ſometimes men commit errors in comparing *Similes*, when they bring things which have only the appearance of ſimilitude, but are not really alike. From this kind of management we may expect to meet with great fallacies. But yet 'tis moſt certain, that our bleſſed Lord would not have given us a Similitude or parable from the unjuſt doings and Judgment of this Nobleman. When this Aſſumption therefore is propos'd by our bleſſed Saviour and his Apoſtles, *he is a Son*, therefore *an Heir*, it muſt of neceſſity be of undoubted right, that in Succeeding to Fathers, Children deſcending from them are firſt to be preferred, after them, thoſe who are in a more remote degree, or branch. Innumerable ſuch places may be brought from the Scriptures, in which the right of Succeſſion by the divine Law, in the aſcending and deſcending line is clearly, expreſly and forever eſtabliſhed: but I am willing to eaſe my reader of any further labour and toil and not tire his patience, only two things are to be taken notice of, firſt, that God ordain'd, that all living Creatures ſhould be Subject to man, all men ſhould obey the King, and Kings be obedient to God: who wills alſo that Kingdoms be Hereditary. Secondly that by violating the divine Law, the quiet and repoſe of a Kingdom or Commonwealth can never be eſtabliſh'd.

Two things ought to be minded.

CHAP.

CHAP. XIII.

Whether Hereditary Succession in Kingdoms flows from the Natural Law.

AFter it has been made appear, that hereditary Succession to Kingdoms, is of Divine Right; we shall enquire if Monarchical Successions, can be said, in any Sense to be derived from the Law of Nature. For clearing this question, the Reader is to be put in mind of that distinction of the Law of Nature, which Lawyers make use of; and which we spoke of before. First, it is taken for that which is common to men with other *Animals*, and belongs equally to them both. Secondly it signifies that Law, *Quod neque datum neque acceptum est, sed quod homini ingenitum & innatum est, sive a natura insitum ut evelli aut deleri non possit.* That is, which is neither given by any positive Law, nor receiv'd, but bred and born in our Nature, or so deeply grafted and planted in Nature, that it cannot be pluckt out or abolish'd. Succession cannot be said to be from the Law of Nature in the first acceptation of it, seeing the animal sense in Brutes extends not it self to think of the future; and Brutes have little more care of their Off-spring, than they have of themselves: And of both only in so far as they can provide for them. But Brutes are uncapable to provide for the future; 'Tis true nevertheless, that by the same instinct of Nature, Brutes without reason, and man who is endued with reason aim at, and pursue one and the same end, to wit, the procreation of their *Species*, and bringing up their young ones. But it may seem to be a straining the point too much, to stretch this bringing up their young, to Succession. Yet it cannot be denied, that Brutes have some kind of στοργὴ or natural affection, seeing they embrace their young with no less care and concern, than men do their Children: Yea sometimes they purchase the deliverance and safety of their young, and as it were of choice, at the expence of their own Lives. We see sheep, which are a most simple sort of *Animals* unconcerned for themselves, even when they are driven to slaughter. But if a Dog, (at whose barking they are naturally struck with fear) sets upon a Lamb, the Mother of it laying aside all regard to it's own safety, attacks the Dog with all its force, and pushes with Head and Horns until he lets the Lamb go. I have seen sometimes at the diversion of Hawking, when a Covie of younger Fowls being rais'd, and endeavouring to fly away with their Parents, the Parents like Commanders flying about and following the Covie, the Hawk having got one from among the young ones in his Claws: the Mother no sooner perceiv'd it, but she rushed with her utmost effort on the Hawk, and stroke him so with her Wings, that he let the young one go, and flew straight at the Mother, and took her life instead of the young ones whose escape she had procured. 'Tis often seen that when a Crow's nest is spoil'd and one of the brood tamed, its dam's care is such that she fails not to carry food to this tame young one. Now these instances are sufficient to convince us of the power of this natural affection among Brutes, yet we cannot

The Law of Nature distinguished.

Succession is not from the Law of Nature in the first sense of it. But in the Second it is.

Brutes not capable to provide for the future.

cannot juſtly ſay, that the care of Succeſſion can be extended to Brutes, in the firſt ſenſe, of the natural Law. Wherefore when we ſpeak of Succeſſion, that it is of the Law of Nature, it is not to be underſtood in the firſt ſignification of that Law, as it comprehends Brutes, but only as it is a Law common to all men: For the care of Succeſſion ſeems only to belong to men, who are united among themſelves by ſome tye of Birth or Kindred.

Wherefore *Florentinus* was in the Right, [a] when he ſaid, *That Nature has made or ordained a kind of Blood relation among us; for from nature the rights of conſanguinity or blood deſcend, which cannot be deſtroy'd by any civil Law.* And that *Reaſon which derives from nature cannot be altered no not by any Authority of Lawyers.* And therefore ſeeing maintenance is owing to Children by the natural Law, they cannot loſe their right to it, by any compact [b]. In like manner in the Lawful proviſions for Children, which ought, by the Law of nature, [c] to be made, they cannot be taken away by any Pact or Statute, according to the opinion of the ableſt expoſitors of the Law [d]. For this natural proviſion does ſo affect men, as it's evident, that it's immutable. But if we are at liberty, to deſtroy Succeſſion, to what purpoſe are thoſe Rights of Birth and Blood? For in contracts or bargains the Rights of Blood, are not minded, no regard is had to them, they are not more or leſs valid upon the account of Conſanguinity; but both parties come under a neceſſity to perform their reſpective engagements, as they are in Stipulations, Suretyſhips, Releaſes, Pacts or Tranſactions, there is no place left for Relation in Blood, 'tis never conſidered. And if Succeſſion be taken away, what ſignifies Kindred or Right by Blood? For it is not eaſy to make it agree to any other Law. Hence comes that common ſaying, *that love naturally deſcends, but does not aſcend.* So the care of Succeſſion ſeems to appertain to men only, and to flow from the Law of Nature, taken even in its greateſt propriety, as diſtinguiſhed from the Law of Nations.

[a] L. 3. de Juſtitia & jure. Inter nos natura quandam cognationem inſtituit, ex ea deſcendunt jura cognationis ſive Sanguinis, quæ nullo jure civili poſſunt tolli.

[b] L. 1. de uſu rerum quæ uſu conſumuntur.

[c] Spec. in tit. qui filij ſunt legitimi. Decius. de regulis juris Dyn. Indultum de reg jur. in 6.

[d] Cum itaque Novell. de Hered. & Falc.

The care that Parents take is chiefly with reſpect to their Children or Poſterity.

Let's conſider then, what vaſt care men take for the propagation of their Family, and how much Parents deſire that their Children may remain after them, rather than that they ſhould ſurvive their Children. This is the very ſpring of all their Cares, Anxiety, Labour, Toils, nay and endangering their Lives too: 'Tis not for themſelves only, but for their poſterity, that they plant Trees, whoſe fruit they are never to eat of, they build Houſes, tho' they know that in a ſhort time they ſhall inhabit them no more, heap up Riches which they ſhall never uſe, and provide Furniture, the meaneſt part of which they make uſe of themſelves, that they may leave the beſt to their Children. Neither is it only for ourſelves, that we undergo ſuch Toils, and become lean, to raiſe our Fortunes; but that it may be well with our Children, whoſe proſperity does above all conſiderations influence our induſtry, we are carried on to all theſe things meerly by an inbred inſtinct, and natural affection; inſomuch that this Right of Succeſſion is rooted ſo deeply in the minds of men, that it can hardly be ſhaken; but it's quite impoſſible to pull it out of them. 'Tis more eaſy to drive away nature her ſelf from men's minds, than the Law and care of Succeſſion. For Succeſſion is the Foundation and cauſe of all Laws, and is to be regarded above all other Rights; becauſe they were all inſtituted for the ſake of it, and it has the firſt place in the procreation of Children; as is evident both from the *Canon* and *Civil* Law. For in both thoſe, the diviſion

vision of Laws, and the definition of the natural Law are to be met with. The *Canons*, which are called *Sacred*, say, that we are led by natural inclination and instinct, not only to educate our Children, but also to lay up in store for them, that is, what we honestly and lawfully acquire, we acquire for and leave to them[b]. And it is by and from the Law of Nature, that Children do Succeed to the whole substance and possessions of their deceas'd Ancestors or Parents. [c] For the case is not alike, as *Papinianus* would have it, that the inheritance of Children is as much the Right of Parents, as that of Parents is due to their Children: because *Pity and Commiseration* gives Parents access to the Estates of their Children, whereas both the *concurring desire or wish of Nature and of Parents* [a] calls Children to the Inheritance. He calls the Succession of Children *Commune votum*, that is the Common desire or wish of Nature and of Parents; because Parents, by natural instinct, flowing from that eternal Light, desire nothing so much, as that their Children may Succeed them. *Callistratus* gives the reason of this, *Besides all these things*, says he, *Nature instructs us, that Parents do beget, and bring forth Sons and Daughters, that from the Off-spring of those Males and Females, our Memories may continue in after Ages.* [b] As if he had said, we all Naturally affect or covet Diuturnity, which Christians call immortality: And seeing one Individual cannot continue for ever in his own person, he endeavours at least, that he may continue in his Children and Posterity. And the same *Papinianus* affirms, that the Inheritance of Children is not due to Parents by the Law of Nature, for the Parents desire of and Natural affection to their Children: but the order of Succession failing, Inheritances are given to the Parents *in commiserationem & solatium*, out of pity, and to be some Comfort to them for the loss of their Children. Whereas the Inheritance of Parents is due to Children, Says he, *Jure sive ratione naturali*, from Natural Right or Reason, [d] *Triphonius* follows this opinion, who says that all what ever Parents have, and can call their own, is designed as a Provision, for their Children. *Voto liberis suis parare.* But *Paulus* the Lawyer is most express, his words in English are these. *Seeing natural reason, is as it were, a kind of a tacit Law, it has given to Children the inheritance of their Parents, as calling them ad debitam Successionem, to the Succession that is due to them, for which cause the name of their Heirs is allowed them; So that they cannot be debarred from that Succession, no not by their Parents.* [e] Wherefore when those things, which are *juris naturalis*, that is, which are introduced, by the instinct of Nature, and not by any constitution, are reckon'd up expresly as Laws, Succession of Children is added to them: Intimating that Succession is from the Law of Nature, and not from the Civil Law. For as the Emperour says, *the Pretor following Natural reason decreed the possession even of goods to Children, tho' they were set free from their Fathers tuition, contrary to the Laws of the* XII. *tables, that is contrary to Statutes and to the Civil Law*[a]. Any man will confess, that all these things are true with respect to Children, and that Succession to their Father is due by the best and most undoubted right. But the case is not the same, as to Grandchildren, who are born wholly under the power of their own Parents. But when these also upon their Fathers death, fall back under the power of their Grandfather, this natural Succession takes place not only in Sons and Children of the first descent but also in Grandsons and great Grandsons: because by them Posterity is rightly preserv'd: and endearing affection does extend it self after the

Eis Thesaurizandum.

[b] Prædicator. de 6. 4.

[c] Jus-naturale distinct. 1.

Ratio miserationis.

Naturæ & parentum commune votum.

[a] L. Script. in F. si tabulæ Testamenti nullæ extabunt unde Liberi.

[b] L. Liberorum in F. de verbor. Signif.

[d] L. nihil interest in prin. de bonis libertorum.

[e] Cum ratio naturalis. F. de bonis damnatorum.

[a] §. Emancipati Instit. de hæreditatibus quæ ab intestato deferuntur.

ſame manner and upon the ſame account to them, as we have already obſerved from *Calliſtratus*. And *Bartolus* was of the ſame mind [b], to wit that for the ſame natural reaſon, Grandſons become his Heirs, his Sons being dead, from whom theſe are ſprung. In like manner *Ulpian* maintains, if his Son ceaſes to be his Heir, his Grandſons and Grand-daughters Succeed to all his ſhare of Goods, and this comes to them alſo by natural equity [c]. And *Juſtinian* calls Children, Succeſſors of their Fathers Eſtate, by natural right, which Right he thinks goes on to Grandſons [d].

[b] Leg. liberorum inde verborum ſignificatione & Bartolus ibidem.

[c] L. 1. § ſi filius de ſuis & legitimis.

[d] Authent. quibus modis naturales efficiuntur ſui. f. L. hac parte unde cognati.

'Tis more doubtful in the collateral Succeſſion, if the kindred, by natural right, have a Title to the Succeſſion: yet a Lawyer aſcribes even this Succeſſion of the kindred, to this right or Law of Nature. His words are theſe, [f] *Hac parte Proconſul naturali æquitate motus, omnibus Cognatis permittit bonorum poſſeſſionem, quos ſanguinis ratio vocat ad hæreditatem. In this Caſe the Proconſul being mov'd by natural equity, grants the poſſeſſion of Goods to all ſuch as conſanguinity or nearneſs in Blood, calls to the Inheritance.* So then as by the Civil Law, the kindred were called to the Inheritance, Succeſſion after the ſame manner belonged by natural reaſon to the kinsfolk: and they are alſo called to it thereby. Certainly 'tis beyond all controverſy, *That the Succeſſion of Kinſmen by the Law of Nature, is authoris'd by Law* [e]. But that no body may think that theſe things relate only to the Succeſſion of Males, and not of Females, *Juſtinian* ſays plainly, *That Nature has produced both Bodies, and that thoſe of the ſame Blood by a Woman as well as by a man are to Succeed: For ſeeing the rights of one and the ſame Blood remains, Per virile ſexum ſeu maſculini ſeu feminini generis non interrupta. It is not interrupted by one Sex more than t'other.* Wherefore, ſaid the Emperour, *We treſpaſs againſt nature and derogate from the Right Law, by allowing the Succeſſion to the deſcendants by Males, and not to them whoſe deſcent in Blood is by Females* [a]. This moſt Religious Emperour allows not the Succeſſion of Women to be any different caſe, from that of Men, and affirms, that thoſe, *who determine the caſe otherwiſe, ſin grievouſly againſt Nature* [b].

[e] L. 1. & toto ut de gradibus.

L. 1. §. Hoc autem de bonorum poſſeſſionibus unde Cognati §. F. Inſtit. de legit. Agnat. tutel.

[a] L. xii. Tabularum de ſuis & legitimis.

[b] L. maximum vitium. c. de liberis præteritis.

From the deciſions then of thoſe Lawyers and Emperours (and whence can we be better inform'd what is *juris naturalis* and what is not) 'tis evident that the Succeſſion of Children, yea of Grandſons, and the Sons of Great Grandſons, and which is more of other Relations, deſcended either of Males or Females, of both Sexes, if they be of the Paternal line, is of the *Right* or *Law of Nature*, and therefore it is not [c] *under the Power of any Perſon to alter it.* And they who violate that Succeſſion, which one has right to, by Blood and Birth, do undoubtedly offer violence to Nature her ſelf, becauſe the Succeſſions of the whole kindred reſpectively are from the Law of Nature.

[c] Clem. Paſtoralis. §. Cæternm de re Judicata. *non eſſe ſub alicujus imperio.*

Jura hæreditaria.

The Succeſſion of Kingdoms from the Law of Nature.

No tolerable account can be given, why our Adverſaries ſhould allow *Hereditary Rights* or the Rights of Inheritance in the Succeſſions of Private men, which they cannot deny to be deriv'd from *Natural Right*, and refuſe it in the Succeſſion of Kings; nor why, the Royal Children or Deſcendents ſhould be defrauded of the Juſt reward of their Fathers merits and virtues, or of their right to Succeed them, more than private men can be refuſed or defrauded of their reſpective Succeſſions. And [d] *Henry* VIII. provides by a Statute, that failing Children of his own Body, the Succeſſion to the Crown of *England*, ſhould according to the common Law of Succeſſion, belong to the next Heirs.

[d] Henry. VIII. Statut. 22. reg. in ſui anno 25.

And

And that all may be convinced, that it was the receiv'd opinion in all Ages, that Succeſſion was a Branch of the Law of Nature, and the Prerogative of Blood and Birth, and due upon that very account, that Remarkable conteſt between *Perſeus* and *Demetrius*, in the preſence of their Father *Philip*, ſhews us evidently. For when *Perſeus* accuſed his Brother *Demetrius*, of aſpiring after the Kingdom: *You would Reign*, ſaid he, *but my Age (for he was the Eldeſt Son) deſtroys your hopes; the Law of Nations is an obſtacle to you, the Ancient Cuſtom of the Kingdom of* Macedon *is in your way, the Determination of our Father keeps you alſo back from the Kingdom, you cannot raiſe your ſelf to the Throne, but through my Blood.* That is, by violating the Right of Blood. And afterwards *Perſeus* ſays of the ſame *Demetrius*, *He covets the Kingdom and Wickedly too, who haſtens to break through the order of Age, Nature, the Cuſtom of the* Macedonians, *and the Law of Nations.*

Perſeus's remarkable ſpeech ſhows Succeſſion to be from the Law of Nature.

Hence it is manifeſt, that it is both the ſame Voice of God and Nature, that he who is next in Blood, to the Deceas'd, has Right to his Inheritance. Theſe bonds of Nature are ſtronger, than to be broken by violence, or any pretences or Colours of Law. For this is Natural Juſtice, or the Natural Law, which gives to every one their due, and can never be ſo much as doubted of; ſeeing there is no obſcurity, no doubtfulneſs in it, as in thoſe things, which take their riſe, depend upon, and have their Progreſs from Errours, or the uncertain and ever changeable opinions of men, but it is derived from the moſt bright Light and Splendour of the Eternal mind, the Fountain of Light. What reaſon can be given, why the Children of Kings ſhould be debarr'd from Succeeding them, in thoſe Kingdoms which they by their Vertue acquired? did *Pelagius* reſcue the Kingdoms of *Aſturia* and *Leon* from the Tyranny of the *Arabians*, and for that end, endure ſo many Hardſhips and Toils, that thoſe Kingdoms ſhould be taken from his, and ſettled on another Family? Or *Garcias Ximenes* who after the ſame manner, and by the like Bravery, forced from the ſame Infidels, the Kingdom of *Navarre*, did he all this, without any Proſpect of his Children's having any intereſt in it? Or did the *Conquerour* then after that moſt Bloody Battel, get the Kingdom, that thoſe deſcending of him, ſhould not Succeed to it? 'Twas quite otherwiſe, for 'twas the Fundamental Law of the Kingdom, and as it were a kind of Sacred Covenant between the King and his people, that as long as the King ſhall hold his own Scepter, ſo long ſhall the people enjoy their Goods and Lands, and on the other hand, that as long as that people continue in being, and breath the common Air, they ſhall maintain and defend the Rights of their King and of his Children, and the Succeſſion immutable. For it was on theſe Terms that their Children ſhould Succeed, that Kings acquired Kingdoms. And the people would be juſtly branded with ingratitude, if forgetting the Former merits of there Kings and benefits receiv'd from them, they ſhould ſuffer any alteration in a Kingdom that is ſo well Conſtituted, neither ſhall I inſiſt any longer upon a Point ſo univerſally acknowledg'd. But if there be any who doubts whether all Succeſſion be of and from the Law of Nature or of Natural Right, I deſire him to Examine himſelf, and to ſearch his own heart, and I dare appeal to himſelf, if he finds not there that ſtorgh or natural affection towards his Children, ſo that if he had never ſo great Poſſeſſions, he would leave all to them; I ſhall not decline his Judgment, if he have Children himſelf. For ſuch as have no Children, are not ſo ſenſible of this Natural affection. 'Twas obſerv'd of *Ageſilaus*, that after his dinner, when there was no Company with him, he us'd to Play, and ride on a Stick

Natural affection makes all Parents careful of their Succeſſion.

a Stick with his Children; one ſmiling at it, ſaid, who would believe, that ſo great a Commander, famous for his many great Atchievments, ſhould ride about after ſuch a manner with his own Children? *Ageſilaus* anſwer'd him immediately, Do not, ſays he, condemn me until you alſo have Children of your own. This great man was not aſhamed to become a Play-fellow with his own Children, but he thought that his natural Affection was not ſenſibly felt in any, but in thoſe who had Children of their own. So we all know this στοργὴ or Affection to be ſo great, that all men deſire that their Children may remain after them, *Penelope* was in the Right, when ſhe expreſſes her deſire, to her Husband *Ulyſſes*, concerning their Son *Telemachus*,

——Dij facient, ut euntibus Ordine fatis
Ille meos oculos comprimat, ille tuos.

So, O ye Gods the Courſe of things Diſpoſe,
That he my Eyes and he thy Eyes may cloſe.

As I have already obſerved from the Lawyers, it is the *votum* the wiſh and deſire of Parents, that their Children, and not that others ſhould be their Succeſſors.

CHAP. XIV.

Succeſſion in a Monarchy is from the Law of Nations and from the Civil Law.

NO man, I think, will deny but the Queſtion concerning Succeſſion is more eaſy from the Law of Nations; Succeſſion being brought in alſo by that Law when weaker people Surrendered themſelves into the Power of the Conquerour. *Ulpianus* defines the *Law of Nations* thus, *Ut illud ſit quo omnes Communiter gentes utuntur, ſive quod omnium hominum inter ſe ſit commune. That it is that Law, which all Nations commonly make uſe of, or which is common to all men, among themſelves.* But I alſo add the *Civil Law* to this Law of Nations, tho' it be different in its Original: For the *Civil Law* was properly the Law of the Citizens of *Rome*, and was put in writing, But when theſe did not make uſe of it, moſt other Nations embraced it, as well for its perſpicuity, as that for its equity, it is deſervedly reckoned by moſt men at this day, the Law of Nations, which notwithſtanding is, and is ſtill called the Civil Law. Wherefore it cannot be thought ſtrange ſeeing there is the ſame reaſon, for the Law of Nations and for the Ancient civil Law, if we join them together upon this occaſion which is under our conſideration. For indeed this ancient Law of Nations was not committed to writing, but in ſo far as it is to be found in the *Roman* Law; but yet it is known to us, by it's being perpetually obſerv'd. The civil Law was put in writing, and it's Rules took place almoſt every where: Neither of thoſe are called poſitive Law as ſhall be made appear afterwards. By the Law therefore of Nations, and alſo by the civil Law, Kingdoms and Empires were conſtituted, as is clear from the text cited in the Margent. [a] And conſtant practice agreeable to the civil Law. People by

Difference between the Law of Nations and the Law of Nature, that the firſt was not put in writing, but the laſt was.

[a] L. ex hoc jure. de Juſtitia & jure.

by *the Royal* or Imperial Law, transferr'd all Right, all Empire and Juriſdiction, to the Prince. There are many that allow this to be true, with reſpect to the *Roman* Emperours, but that it does not at all take place in *France* and *England*. For they will by no means allow that their Kings did ever take or receive their Power from the People, but from God Almighty alone, and with the People; So that the King and people had the ſame beginning, when under the command of their Kings, the People poſſeſs'd themſelves of any Provinces. As in *Pharamond* the Kingdom of the *Franks*, and in *Hengiſt* the Kingdom of the *Engliſh Saxons* took their riſe, which did deſcend to their Children. But whatever is in this, from the beginning Kingdoms and Empires were at firſt conſtituted by the Civil Law, and the Law of Nations. Yet it may perhaps be doubted, whether Succeſſion took place in thoſe Kingdoms. By the *Laws of the XII Tables*, the moſt Ancient that were written, the Eldeſt Children were called to the Inheritance, whether they would or not: Their own Children or Grand-Children were in the power of their Father or Grand-father; but their own Children failing, the next Kinſman of the Family got the Inheritance. They were reckon'd to be of the Family, who ſtill retain'd the Name of the Family; and they were called *Agnati, kinſmen by the Fathers ſide*. But the Children of Siſters, who were Married into another Family, and did not keep the name of their Grand-Father, were not admitted to the Succeſſion, or Sons who were put out of their Fathers Juriſdiction. But afterwards in the Laws which were between the Laws of the XII Tables, and the Imperial Laws, during the time of the Common-wealth, when the *Pretors* had the Power, were Judges, and gave Decrees, it was thought hard to exclude Sons by a Daughter, when their Deſcent was from the ſame Parent. Wherefore the *Pretors* decreed, that they ſhould Succeed, upon account of their being *Cognati*, or Deſcended of the Family by the Mothers ſide. And whoever was neareſt akin, whether by Sons and Brothers, or by Siſters and Daughters, was preferred to the Succeſſion. From which Conſtitution it ſeems, that if the difference between the Deſcendants by the Father's and by the Mother's ſide, was not quite taken away, yet the Children deſcending by Women, were put almoſt upon the ſame Foot, with thoſe Deſcended by the Males as to Succeſſion, if they were Deſcended from the Paternal Line. Hence that Cuſtom in *Briefs* (as they are called) both in *England* and *Scotland*, when the Inqueſt asks, who is the next Kinſman to the Deceas'd, the meaning of that word is preſently added, that is who is Neareſt on the Fathers ſide, or of the Paternal Line.

In France *and* England *Kings had not their power and rights from the people.*

Succeſſion by the Laws of the XII. *Tables.*

Emancipati media Juris prudentia.

Succeſſion, by the jus prætorium.

The *Roman* Common-wealth being overthrown, the *Cæſars* Succeeded, and their Conſtitutions were next in time, to the *Prætorian* Laws. Among them *Juſtinian* was moſt applauded. He reckon'd that what the *Prætors* had done, was right, and approv'd of the Prætorian or Honorary Laws; becauſe they had made the Condition of the Kindred by the Mothers ſide better. Yet he did not think, that they had made ſufficient proviſion for them. Wherefore he taking away all difference, between the Relations of the Fathers and of the Mothers ſide, put them altogether on a level; and ſaid, that they offer'd violence to Nature, who aſcrib'd more to Males and to their Succeſſion, than to Females and theirs; as if Nature was to be blam'd that had not produc'd them all Males. So that there ſhould have been none, by whom Poſterity could have been propagated, as was diſcours'd in the former Chapter. And ſo this Law of *Juſtinian*, came to be univer-

Succeſſion confirm'd by the Jus Cæſareum ſeu principale.

univerſally receiv'd. And at this day it is reckon'd, and juſtly too, to be a *jus gentium*, that not the next Kinſman of the Father's ſide, but the next in Blood ſhould Succeed, if he be of the Paternal Line. For the Line of the Mother is taken notice of at this day only in thoſe who deſcend from the Mother. And ſo to this day we make uſe of this Law in *Britain*. Even tis evident that the firſt Civil Law, was the ſame with what is now the Law of Nations; and takes place in all Nations in *Europe*. But if any are not ſatisfied with what I have ſaid, and want to be inform'd, what was Anciently the form and manner of Kingdoms and Common-wealths, and whether Succeſſion had place in them; I ſhall bring unexceptionable Evidences for the Affirmative.

The Civil Law much the ſame with the Law of Nations.

Succeſſion obtain'd anciently in all Kingdoms.

Thucydides and all Hiſtories of the ancient *Aſſyrians*, *Medes*, *Perſians*, *Tyrians*, *Ægyptians*, *Hebrews*, *Lacedæmonians*, *Macedonians*, *Epirots*, *Celts*, and *Athenians*, give their Suffrages in favour of Succeſſion; and tell us that thoſe Kingdoms were Hereditary Monarchies. Neither was there ever any room for Election or Rejection, while the neareſt Relation of the Royal Family was alive. But when the Royal Progeny fail'd, it is certain that the people, either Elected Kings, or elſe yielded to Ariſtocracy or Democracy. And the want of Succeſſion gave the firſt riſe to theſe Governments. *Ariſtotle* makes no doubt of this, when he affirms, that thoſe Kingdoms which deſcend by a conſtant Succeſſion are moſt firm. *Herodotus* ſays alſo that by the common practice in all Nations, the firſt Born did Succeed to his Father. *Tacitus* deſcribing the Manners and Cuſtoms of *Germany*, (under which deſignation 'tis moſt probable, and agreeable to the Opinions of all the Learned, that he comprehends all the Northern Nations) ſay that all mens Children were their Heirs, and Succeſſors; and that they made no laſt Will or Teſtament. But if there were no Children, then Brothers and Uncles, as well by the Mother as by Father did Succeed: And every man was preferred according to the nearneſs of his Relation. *Ajax* is brought in by *Ovid* uſing the ſame kind of Argument.

Lib. 7. Politic.

Germany *and the Northern Nations of old maintain'd the right of Succeſſion.*

Frater erat, inquit, fraterna peto.

He was my Brother, and therefore I demand (ſays he,) *what appertains to a Brother.*

In Plutarch. *Plutarch* gives account, that *Lyſander* endeavour'd to perſwade the City of *Sparta*, to aboliſh the Ancient royal Law; by which the Succeſſion in the Kingdom belong'd to the Family of the *Heraclidæ*, and that not the neareſt of kin, but the moſt deſerving perſon ſhould be choſen: And yet there was no man that approv'd of his Opinion. Nor was there any Empire among the *Grecians*, that laſted longer, or any City among them more Famous, than *Sparta*, which was never ruin'd but by changing the Right of Succeſſion to the Kingdom. For among the *Lacedæmonians* the Family of the *Heraclidæ* Reign'd without interruption, and did not fail for more than Six Hundred years together. But King *Cleomenes*, being kill'd in *Ægypt*, *Lycurgus* an upſtart, gets himſelf Choſen King by the people, whom he had Brib'd with his Money; *Chylon* who was of the Blood Royal, having been put by his Right, becauſe he had not Money enough to ſcatter among them, being enraged at ſo great an indignity, tho' he could not recover the Kingdom by Force out of the hands *Lycurgus*, yet Revenged himſelf on the *Ephori* or Magiſtrates, who had Choſen that Uſurper, and put them all to Death. And forthwith the Kingdom of *Sparta* went to ruin, as I have already obſerv'd.

The ruine of Sparta *by changing the right of Succeſſion.*

Chylon's *reſentments againſt the* Ephori *for depriving him of his Succeſſion.*

But

But becauſe examples were firſt, and afterwards were committed to writing, we ſhall from the examples of all Nations, make appear undeniably that the Succeſſion to Kingdoms continued in one Family, ſo that the next in blood, or Eldeſt Son always did Succeed, if there were Sons, becauſe the Kingdom was not to be divided. But if there were no deſcendants in a ſtraight line, then it's evident that the Succeſſion devolv'd on the Collaterals, according to their proximity in Blood, and that the right Succeſſion was never excluded, but that Excluſion was ever accompanied with the Deſtruction of the Kingdom.

The firſt Hereditary Kingdom, was the Aſſyrian.

The *Aſſyrian* Monarchy was the firſt Kingdom, and tho' the beginning of it be already aſcribed by us to *Nimrod*, yet it had not the name of a Kingdom before *Ninus*, who was deſcended from *Nimrod*; whom moſt Authors call *Ogyges*. The Epitaph of *Ninus* recorded by *Xenophon in Æquivocis* imports as much. Belus *was my Father*, Saturnus Babylonius *my Grand-Father*, Chus Saturnus Æthiopicus *my Great Grand-Father*, *my Great Grand-Father's Father*, Cœlus Phœnix Ogyges. Here the order of Blood continued uninterrupted. Others ſay, that *Belus* was the firſt, who was called King of the *Aſſyrians*, and that Kingdom which was reckon'd the firſt of all the Empires, and for the Proſperity which accompanied it, and the great riches and tranquility of that people, it is compared by *Daniel* to the *Head of Gold*. From *Ninus* to *Sardanapalus*, the three Hundred and Fifth King, (tho' ſome ſay, there were only three Hundred and Three) the Kingdom continued in one Race, for one Thouſand two hundred and Thirty eight years; So that the Son was always Succeſſor to the Father in the Kingdom. But *Sardanapalus* having diveſted himſelf of all manly Qualities, and preferring the uſe of the Diſtaff to the Scepter, and the *Gynæceum* to the Court or Camp, deſiring to become a Woman, and imitating their Squeaking voice, was upon that account Dethron'd by *Phul-Belochus* and *Arbaces*. The Empire of *Aſſyria*, came to be ſo divided between them, that *Arbaces* became King of the *Medes*, and *Phul-Belocus* of *Aſſyria*; who tranſlated the Seat of the Empire from *Nineveh* to *Babylon*. The Kingdom continued Hereditary in both their Families, and the Son Succeeded to the Father, and upon failure of the Sons, the Brother or next of kin Succeeded conſtantly; until both Empires came to be again united under *Cyrus*, and were called the Empire of the *Medes* and *Perſians*. The poſterity of *Cyrus* ending again in *Cambyſes*, *Darius Hiſtaſpis*, tho' rais'd to the Kingdom by Lot, or the Neighing of a Horſe, as *Herodotus* tells us, tho' ſome Hiſtorians ſay, that he had the Daughter of *Cyrus* for Wife: Yet he made the Kingdom Hereditary. Eleven Kings are reckon'd up, from *Darius Hiſtaſpis* to *Darius Codomannus* the laſt of that name, whom *Alexander* overcame, the Son ſtill Succeeding the Father. But ſoon after that Monarchy of the Victorious *Alexander*, being rent in pieces, and torn aſunder by his four Captains, *Caſſander*, *Ptolemy*, *Antipater* and *Demetrius*, each of them made a kingdom of the Provinces, of which they poſſeſs'd themſelves, which they made ſure of for themſelves, and to their Heirs after them, until at laſt all thoſe Kingdoms fell under the Power of the *Romans*, and therefore *Lucan* was in the right, when he ſaid,

Mihi Pater fuit Belus, Avus Saturnus Babylonius, proavus Chus, Saturnus Æthiopicus, Abavus Cælus phœnix Ogyges.

Fœlices Arabes, Medique Eoaque turba
Qui ſub perpetuis tremuerunt regna tyrannis.

O happy Medes, Arabians, Eaſterns *all*
Whoſe conſtant lot did under Monarchs fall.

The Empire of the Medes *and* Perſians.

The Succeſſors of Alexander *the great's Captains were hereditary Monarchs.*

Lib. 7.

The

Lucan reckon'd thoſe Eaſtern Nations happy, as having been Govern'd by hereditary Monarchs. The Kingdom of *Parthia*, continued from Father to Son in the Family of *Arſaces* four hundred and Seventy Five years. So did the Kingdom of *Bactria*. And after the *Aſmonæans* aſſumed the Kingdom of *Judah*, that Family held it until *Mariamne* the Wife of *Herod*. After that, the Family of *Antipater* Reign'd for ſome years. I can affirm the ſame of the Kings, of *Numidia*, *Cyrene* and *Mauritania* *Reinerius* in lib. *de familiis Regnorum in tribus primis Monarchiis*, gives account of the race of all thoſe Kings and how the Sons did Succeed their Fathers in their Kingdoms; which enjoy'd great happineſs, whilſt they laſted. He ſets forth, I ſay, their deſcents, the order of their Succeſſion, and the time in which they Reigned. So that we ſee, *that it has been the practice and cuſtom of all Nations, from the firſt riſe of Kingdoms, that the Son Succeeded the Father, and if he had no Son, then the Brother or he who was neareſt of kin to the deceas'd.*

The Kingdoms of Parthia, Bactria, Judah, Numidia, Cyrene *and* Mauritania *were Hereditary.*

The firſt born Succeeds to his Father by the cuſtom of all Nations.

And if we turn to *Greece* which was more eſteem'd than other Countrys for Humanity, Learning, and Diſcipline (albeit *Cicero* takes notice, that all Humanity had left *Aſia*) yet while it had Kings, they were Hereditary, the Sons Reign'd after their Fathers; and when theſe fail'd, the next in Blood. *Athens* was at firſt founded, and well Govern'd by Kings; and whatever Famous Actions were perform'd by the *Athenians* are by *Socrates* in *Panathenaico*, aſcrib'd to the Conduct and Bravery of their Kings. And he ſays, that the Common-wealth of *Athens*, never was ſo flouriſhing, as under the Government of Kings; and whilſt their Kingdom continued hereditary. And I have before obſerv'd, that the *Athenians* never took up with Democracy, until the line of *Mneſtheus* and *Theſeus* fail'd. The Kingdom of *Argia*, which had its beginning from *Inachus*, continued hereditary, tho in his line Heirs Male fail'd thrice, firſt in *Niobe* the Daughter of *Phoroneus*, after that in the Daughter of King *Jaſus*, and laſtly in *Lybie* the Daughter of *Epaphus* (who afterwards going into *Ægypt* became Mother to the Kings of that Country.) So that the Succeſſion laſted without interruption, unto *Cilabaris*, their 32th King: who dying without Children was Succeeded by *Oreſtes* in the Kingdom of *Argia*. 'Twere eaſy to ſhow the ſame Hereditary Succeſſion, in the Kingdoms of the *Mycenians*, *Spartans* and *Thebans*, in which the younger Sons of *Cadmus* reign'd. And in *Arcadia*, the beginning of which Kingdom was from *Pelaſgus*. In like manner of the Poſterity of *Æacus*, and the Family of *Teucer* in *Salamine*. And we do not read of any of all the Kings in *Greece*, who were Elected, but only *Pittacus* and *Timon*, whom I nam'd already. Laſtly, *there was no Kingdom of old, in which the Son or the next in Blood, did not, by the Succeſſory right, Succeed the deceas'd King.* *Demetrius* prov'd before the Senate of *Rome*, that his Brother *Antiochus* King of *Syria* being dead, that Kingdom appertain'd to him, by the Law of Nations. For, ſays he, *Venerable Senators, my Brother being elder than I, did by the Law of all Nations* (his words deſerve to be weigh'd) *obtain the Kingdom*; *ſo you may underſtand, that by his death it is devolved to me.* So that the Law of Nations had and ſtill has place, not only with regard to Succeſſion, in the ſtraight line, of Deſcendents from Father to Son; but alſo in the Collateral line.

The Athens.

Argia.

Mycena, Sparta, Thebes, Arcadia, Salamine.

Succeſſion by the Law of Nations took place, and belong'd not only to the deſcendants in the ſtraight line but alſo to Collaterals.

The

The Kingdom of the *Macedonians* did continue, by a constant Succession of the *Heraclidæ* or Posterity of *Hercules*, five hundred years, from *Caranus* the Grandson of *Hercules*, and had its period in *Alexander* the Great, who died without Heirs-Male; and no doubt it had lasted longer, had he left any Issue behind him. After his Death, all his Empire was pull'd to Pieces, by his four *Prefects* and Presidents of Provinces. 'Twas the Opinion both of *Aristotle* and *Cicero*, *that Kingdoms were at first Hereditary, and therefore less liable to Inconveniencies and Seditions.* But should I search into the Families of all Kings, this Treatise would swell into a huge Volume. Macedonia.

Should we ransack Christian Kingdoms, I might ask in what places of Christendom, were not the Kingdoms, Hereditary? *From* Pharamond *to this time, the Kingdom of the* Franks, *is continued by Families, so the Son still Succeeded his Father* as said *Agathias* a Greek writer, who wrote above eleven hundred years ago. And tho Succession in the Right Line, was twice broken by *Pepin* and *Hugh Capet*, yet we find that always, upon the entrance of a new Family, to the Kingdom, the new King made it Hereditary to himself and his Posterity. *Christian Kingdoms were hereditary.* France.

After *Spain* was recovered, many Kingdoms were Erected in it. So that, whoever recovered any part of it from the *Moors*, made himself King of it. And all those Kingdoms were Hereditary, which at this day, are all united into one most potent Kingdom. And yet all those Kings were Descended, from the Progeny and Stock of *Pelagius* and *Garcias*. Spain.

But let's hear what *Rodericus Sancius* Bishop of *Valentia* writes of this Affair. For after he had deduced *Henry* IV. Lineally (as he speaks) from *Athanaricus*, the first King of the *Goths*, through Eighty two degrees; 'and from *Pelagius* through Forty four degrees, and as many Successions, 'he adds, This is so very singular a thing, that the like is not to be met 'with, in all *Europe*. And tho' there are, many most Ancient and excel- 'lent Kingdoms in it, yet none of them have continued so long time un- 'der one Royal House and Family, and without the interposition of any 'other Family. And tho' there have been Wars often, between the Kings 'of *Spain*, and considerable Battels fought, with great Loss on 'both sides, yet the Sovereignty never went into a foreign Family. So 'excellent a Benefit as this is, said he, cannot be thought to have been 'vouchsafed them by the Almighty, for any other reason, but for their ex- 'traordinary and devout Reverence for the Catholic Religion: Which they 'constantly preserv'd, from the days of *James* the Apostle to this time. 'And for their most dutiful Veneration, and Obedience to the Apostolick See. What he says for the Honour and Advantage of that Hereditary Monarchy is true, tho' he gives another than the true cause for it. And not as yet to leave *Spain*, when the *Arabians*, had Reign'd in it above seven Hundred years; and nothing had so much hindred their Success of their affairs, as the killing the *Amirases* when, as, one Succeeded by Election to the former, whom he had kill'd, (for, as I hinted before, 15 *Amiraſes* were killed within the compass of Twenty years, hence War after War.) *Amiras Abderamen*, having obtain'd the Kingdom *A. D.* 819 He for prevention those mischiefs and Civil Wars, ordain'd, that among the *Moors*, the Sons should always Succeed to their Fathers, in those Kingdoms. This most Subtile Prince perceiv'd that the affairs of the Christians, (among whom Sons Succeeded their Fathers in their Kingdoms, without any Tumults or disorders,) grew dayly more Prosperous in *Spain*, against the *Arabians*: and had

Lib. 1. cap. 16. Histor. Hispan.

Joh. vaseus in suo Hispan. Chronico.

had likewiſe obſerved from the conſtant practice of the *Moors*, that Civil Wars among them, could never ceaſe, ſo long as Election took place, and the Kingdoms were not Hereditary.

Hungary. The Kingdom of *Hungary*, as I took notice already, in that conteſt which was between *Matthias Corvinus* and *Frederick* IV. Emperour, was judged and declared by the Chief men or Eſtates of *Hungary*, to be Hereditary, and not Elective. But the people being once beſotted by the Election of *Matthias Corvinus*, and perceiving that *Lewis* being dead, *Ferdinand* in the Right of his Wife, the Sifter of *Lewis*, ſhould have the Kingdom Hereditary; whether it was, that they had a greater Affection for the Family of the *Bathori*, or that they would keep to themſelves the right of Electing their Kings, they brought in *Solyman* Emperour of the *Turks*, for preſerving the Freedom or Privilege of Election, who deſpoil'd them of their Liberty, and Royal Dignity; and they were at the deſcretion of thoſe Infidels as to the exerciſe of their Religion; and at this day are under a moſt miſerable Servitude: *ſuch are the fruits of Election.*

Danemark. For the ſame reaſons, it was ordain'd by *Waldemar*, that the Kingdom of *Danemark* ſhould be Hereditary A. D. 1170. as *Crantzius* writes, *leſt*, ſaid he, *upon the Kings death, their ſhould again be conteſts for the Kingdom.* The great men of the Kingdom, remembring what they had ſuffer'd formerly under *Olaus* the Son of *Harold* and *Sweno* the Son of *Ericus*, while all the people were divided into Factions, upon account of the Competitors, ſome having made Choice of *Sweno*, and others of *Canutus* the Son of *Magnus* for their King; they made a repreſentation of that affair, and gave their advice to the King. And the Succeſſion in the Kingdom continued Hereditary near three Hundred years, until *Margaret* the only Daughter and Heir of *Waldemar*, who leaving no Children to Succeed, the whole Royal Race fail'd; and ſhe with the conſent of the people of *Danemark* having adopted *Ericus* Duke of *Pomerania*, the *Danes* reckon'd that adoption to be an Election. 'Tis true, *Ericus* had the honour to be the firſt Foreigner, that had been called to be King of *Danemark*; yea of the Nation of the *Vandals*, which had always been great Enemies to the *Danes*. To *Ericus* Succeeded *Chriſtopher* of *Bavaria*; who tho' he was Nephew to *Ericus* by his Sifter, yet being of another Country, and becauſe *Ericus* himſelf was not of the Royal Line, he owed the Kingdom, as the *Danes* ſay, to Election. After his Death, becauſe none remained of the Blood Royal, they had their recourſe to Election, and *Chriſtian* or *Chriſtiern* Count of *Oldenburgh* was choſen, in whoſe Family, the Kingdom, as the *Danes* ſay, continues as yet Elective, tho' it deſcends conſtantly from Father to Son, unleſs in the inſtance of *Chriſtiern* II. Grandſon of this *Chriſtiern*, who for his Cruelties was expell'd the Kingdom, and *Frederick* the ſecond Son of *Chriſtiern* I. when *Chriſtiern* II. had no Heirs-Male of his own Body, was put in his place. And ſo the Kingdom of *Danemark* came to be Elective, when the whole Royal Family was clean gone; after the Death of *Margaret*, Daughter to King *Waldemar*. Neceſſity put them upon Election, and yet unleſs it was for ſome remarkable Tyranny or ſuch like cauſe, they always choſe him, who was next in Blood of the Royal Family to Succeed. Indeed ſince *Danemark* came to be Elective, the Kings of it, at their inauguration, are forc'd *to ſubmit to Laws.* And the *Daniſh Nobility* has ſo far Subjected their Kings to them, that they cannot make Peace or War without the conſent of the Senate, or Puniſh any of the Noble-men capitally. Yea for the defence of their Common Liberty, they made a League with the King of *Poland*, and the free

Cap. 23 & 24. lib. 6. Danicæ. hiſtoriæ.

Cap. 24. lib. 5. Hiſtor. Dan.

Leges amplectere.

free Town of *Lubec*, againſt their own King; things not to be ſuffer'd in Succeſſory Monarchies. Thus much for the Kingdom of *Danemark*.

Sweden. I ſhall only ſay, theſe few things of the Kingdom of *Sweden*, that Ancently it was Hereditary, and continued to be ſo, until by the Inſolence and Cruel Tyranny of one man *Chriſtiern* II. he and his Family were depriv'd of the Kingdom. Even as the haughty behaviour of Kings in former times, made way for Ariſtocracies and Democracies; and ſo *Sweden* became Elective; Yet ſo as the next in Blood to the Deceas'd, and who ought to have Succeeded, had the Monarchy been Hereditary, was always Choſen. For tho' there is ſome difference in the name, yet there is none in the thing, whether that Kingdom be called Elective, in which none but the Right Heir is choſen, or Hereditary, ſeeing in both the true Heir is always ſet upon the Throne.

Poland. In *Poland*, which vas not a Kingdom before the 999 year of our Lord, and was continually Succeſſory, *Jagelon* Duke of *Lithuania*, who was called *Ladiſlaus* V. being accepted of (tho' a ſtranger) by the Nobility of *Poland*, for Husband to their Queen, who thought it was more reaſonable that hey ſhould chuſe a Husband for her, than that ſhe ſhould chuſe a King for them all; the Succeſſion devolv'd conſtantly and Regularly fron him, from Father to Son, even to *Sigiſmund* named *Auguſtus* the lat of *Jagelon's* Race, and who died in this our Age. So that while *Ioland* continued a Kingdom, the Sons Succeeded their Fathers in it. For *Jagelon*, tho' a Foreigner, had the Heireſs of the Kingdom, for his Wife, and the Family was continued in the Children, by their Mother. The Nobility and Palatinates, will have the Kingdom of *Poland* call'd Elective, and yet the Children of their deceas'd King, and through defect of ſuch the next in Blood, is rais'd to the Throne; So as at this day *Sigiſmund* III. Nephew by a Siſter of *Sigiſmund*, ſirnam'd *Auguſtus*, is King of *Sweden*, and was choſen alſo King of *Poland* as being neareſt in Blood.

Peru. Nay the Kingdom of *Peru* is alſo Hereditary, where neither humanity or learning are known. For when *Francis Pizar*, General of *Charles* V. in that part of the World, put their King *Atabiliba* to Death, the People rejoic'd greatly, becauſe *Atabiliba* had deprived his Eldeſt Brother both of his Kingdom and Life.

And ſhall we think that all thoſe Nations were, for ſo many Ages, devoid of commo Senſe and Wiſdom, that they knew not whether Succeſſion or Electon was moſt expedient for them; or underſtood they none of thoſe Maxims that were for their own Advantage, until this Spurious order of *Jeſuits* ſprung up? Not ſo. Certainly all thoſe Kingdoms knew very well what was for their own Intereſt, and coveted earneſtly thoſe things, which conduced moſt to their own happineſs. Neither can it be thought, that they would have preferr'd hereditary Succeſſion in their Kngdoms, to Election, unleſs they had been ſenſible of the Advantages of the former. Utility it ſelf, which is almoſt the Mother of what is true and juſt, perſwading them to it. Let us hold faſt then this principal and moſt unſhaken Axiom, That *Succeſſion in Kingdoms is from the Law of Nations, and that all Nations do naturally deſire Kings for themſelves deſcended from the Royal Stock.* Or if any pretend that they wou'd rather have Elective Governments, it can be little more than bare pretenc, ſeeing really even in theſe Elective Kingdoms, moſt commonly the nex in Blood is always choſen.

Ipſa utilitas veri pene mater & juſti.

CHAP.

CHAP. XV.

Neither the Prince, nor the People can by any Statute take away the Hereditary Succeſſion of a Kingdom, that rightfully *belongs to any Perſon.*

See Chap. xii. xiii. *and* xiv.

SEeing it has been already prov'd to a Demonſtration, that hereditary Succeſſion is from the Divine Law and the Law of Nature, and from the Law of Nations, let's ſee if any Prince whatſoever, even tho' he have the greateſt prerogatives, can in any wiſe prejudice him, who, by thoſe Laws, has Right to the Succeſſion.

No man can diſpence with the Laws of God.

To begin then with the Law of God, I can ſcarcely think that any man can be ſo brutiſh as to imagine that any Mortal can derogate from the Laws of God or Divine Right. And that proceſs of *Henry* VIII. againſt his Wife Queen *Katherine*, which was confirm'd by the opinions and Suffrages of ſo many Univerſities, expreſly affirms, *that no man of what Eſtate, Degree, or Condition ſoever he be*, the Pope himſelf not excepted, (tho theſe *Jeſuites* think that he can do every thing) *hath Power to diſpence with God's Laws.* The Lawyers ſay, *that an equal hath not Power or Authority over his equal*, much leſs over his Superiour. What elſe is it, to have Power and Authority over one, but to overturn and annul his Laws and Statutes, eſpecially ſeeing at this day, there is no King, that has any power but from God, nor any Juriſdiction but what is Vicarious. A man might deſervedly be reckon'd Mad, ſhould he think, that a Gardiner could Aboliſh, Abrogate or Reſcind the Laws of his King or Emperour. Yet ſome compariſon may be made between a Gardiner and a King; for it is no more, but one man compar'd with another. But there is no comparing of man to God, there being no Proportion *inter finitum & infinitum* (as they ſpeak in the Schools) between a finite Creature, and God who is infinite. Therefore as he is unchangable, ſo his Laws are immutable. But this ought to be minded, that none may be ſo conceited, as to preſume to give Laws to his Sovereign, or reject him in the Adminiſtration of Juſtice, which no Servant indeed dare preſume to do againſt a poor Maſter of a Family. For nothing is nearer to impiety, than, for any probable Cauſes or Arguments whatſoever, to call in Queſtion or annul thoſe Laws, which were given by God Almighty, the power and Authority of which Laws, do for ever bind and oblige us. For the Teſtimonies which we have from the Law of God concening Succeſſion, and the Prerogative of Primogeniture, or the Rights therin appointed, are to be reckoned more firm than to be overturn'd by any humane reaſoning, or for humane conſiderations. Neither is it Credible, that any can be ſo ſhameleſs as to deny either the Will or Rule, of the Almighty God, to be the moſt firm, as well as the moſt Ancient of all Laws, and ſay that the Order of Succeſſion, which was ordain'd by him, is not agreeable to reaſon, by which alone men ought to be governed.

Statute 22. anno 25. Henrici viii.

Par in parem non habet imperium.

Now if one may with impunity diſobey a Magiſtrate, who goes without his Precincts, or gives Sentences which he ought not to give a; and if it be Lawful for every man to refuſe his commands, even tho' what he commands be in it ſelf honeſt, how much leſs is any Prince to be obey'd,

a L. F. de Juriſdic.

obey'd, who perverts the Divine Laws, or Commands things that are unlawful. For he himself is order'd, not to transgress the bounds and limits of Government set him by God, or break through and violate the Laws of his Jurisdiction prescribed to him. He is also to keep this deeply impress'd on his mind, that God never so bestow'd a Kingdom on any man as to be a personal Gift; but it is so given by God, that the Posterity of that King also should hold it of him, by the Lawful order of Succession: Altho he hath sometimes, for the Ingratitude of the Grantee, taken back the Kingdom from him, as in the case of *Saul*. Yet he says expressly, that *he had given all Nations into the hand of* Nebuchadnezzar *to serve him and his Son, and his Son's Son* (though they were impious and Idolatrous Princes.) *until the very time of his Land come, and the Nations that will not serve him, and that will not put their neck under the Yoke of the King of* Babylon, *will I punish, saith the Lord, with Sword, Famine and Pestilence until I have consumed them.* Jerem. 27. *And seek the Peace of the City, and pray unto the Lord for it, for in the Peace thereof ye shall have Peace.* Jerem. 29. Jerem. 27. Jerem. 29.

Here then we have the declar'd will of God, promising Blessings on those, who pay'd a due regard, to the Right of the Lawful Succession, and threatning heavy Judgments on those who slighted it. Neither does God, who is blessed forever, any other way reveal his Will at this day, but by his written word and Laws, for *his Judgments or Commandments are for the Testimony of his Will* Psal. 119. And that which is done lawfully, is said to be done by God, for the Judgments which Magistrates give is not mans, but the Lords, even the Judgment of the Living and Omnipotent God himself, for they Judge not for men, but for the Lord. So to return to what I propos'd in the beginning of this Chapter, No man whatsoever, let his Power and Prerogative be never so great, can dispense with a Divine Law; much less vacate and annull it. [b] For the Laws which are from God are reckoned immutable. *Till Heaven and Earth pass* or the World come to an end, one *Jot or Title shall in no wise pass from the Law*, saith the Lord. *Matth.* V. 18. *Luke* XVI. 17. For the Eternal Laws can neither be equalled by any, nor derogated from. And truly no probable reason can be given or devis'd, why we should violate the Divine Laws, or why Princes should be less under the obligation of them, than the People are. *Omne sub regno graviore Regnum est.* Every Kingdom is Subject to a greater Kingdom. We see in fee Farms or Copy holds the form of that fidelity, which the Vassal owes his Lord, to wit, that he will be faithful to his Superiour, against all persons whatsoever except the King, or his Soveraign Liege Lord, who has a chief and paramount Power over them all whether Superiours or Vassals: Obedience is most certainly due to Kings, but still after the immortal God, who is King of Kings and has the Power of Life and Death over all Kings, whose Vassals they are, and of whom they hold their Kingdoms for military Services.

Judicia enim pro testimonio ejus voluntatis sunt.

[b] L. 1. de Jure aureorum annulorum.

Senec. in Thebaid.

A Prince cannot lawfully overturn the rights of Succession, which are of Divine right.

But if a Prince might at his pleasure overthrow Succession, which is establish'd by the Law of God, what could have been the cause of that great contest between *Achab* the King of *Israel*, and *Naboth*, when *Naboth* said that his Vineyard was the Inheritance of his Fathers? What occasion could have been for forging Crimes and Suborning Witnesses, if the King by his Statute or Law, could have disannull'd that hereditary Right, and adjudged the Vineyard to himself or to any other? 'Twas not so,

for even the Wickedſt Prince cannot abrogate that Succeſſion, which devolves to one by the Law of God, unleſs he be reſolv'd at the ſame time knowingly, and of choice, to undergo with *Ahab* the puniſhments, which are due to the violating the Rights of Succeſſion. *The Law of God is far above the Laws of men* [c]. And forbids us to take away by violence other mens Goods and Riches. For nothing is more ſtrictly commanded, to be Religiouſly obſerv'd by us by the Divine Law, than that we ſhou'd bridle our deſires, and keep our hands clean from the Goods and Riches of other men. But no man can be ignorant that the *Rights* of *Succeſſion*, are eſpecially reckon'd among a mans Goods. If any man deſtroys thoſe either with his hands, or by any Statute (that was under his hand and power) it makes no difference. Wherefore it is not lawful for a Prince, to take away what is another mans by any mean whatever, and if he ſhould do it, the Scripture tells us that we are *to obey God rather than Man*, God, I ſay,

[c] Can. diſtinct. 10. Major enim eſt lex Dei quam hominum.

Cujus ab arcano templo, venerabilis horror
Stupefacta in Pectora currit.

From whoſe dark Fane ſuch Reverend horrors riſe
As mortal Breaſts with awful fears ſurprize.

By the laſt Precept of the Decalogue, we are forbidden even to covet what is another man's, much leſs can we injuriouſly take it from him. But all men will own that Princes alſo are under the obligation of the moral Law, and bound to obſerve the precepts of it.

Natural rights or thoſe which are by the Law of Nature can not be diſannull'd by a Prince.

What has been ſaid of the Law of God may be alſo affirmed of the Law of *Nature*; for the voice of God and Nature (I ſpeak of *Nature* before the fall) is the ſame, of which only ſome ſparks remain with us, and which put us in mind of our ingratitude toward our Benefactor, and of our other faults. And truly if either a King, or the Eſtates of a Kingdom, deſtroy the Natural Law, or the Right of Succeſſion devolv'd from Nature, by ſuch a deed they plainly oppugn and ſubvert the Rights and Laws of Nature; And yet God Almighty has engraven the ſame Nature on the minds of men: Againſt which no written Law, nor any pontifical Canon, no not any thing, that can be ſaid or done by men, can take Place. For the Law of Nature is the firſt rule of Morality, and is not to be reckon'd the Law of men, but of God himſelf, which we draw from Nature her ſelf, and with life it ſelf, by which alſo Princes themſelves are much more bound than their Subjects. So that neither Senate, nor King either by their Statutes or their interdictions can aboliſh it. And as the Lawyers will have it, a King can no wiſe grant any diſpenſation, either in whole or in part (to uſe their phraſe) againſt a Divine or Natural Law, nor any wiſe in any point decline from it [a]. And the Statute of a King however worded, whether by diſponing of any thing, or when it puts or ſuppoſes a Caſe, yet it can never enervate natural reaſon or equity, which only is true Juſtice [b]. For it is moſt certain, that Succeſſion is a right of Blood, but it ſeems very ſtrange that the Rights of Blood ſhould be annull'd, by Statute, Law, or any civil or poſitive ordinance, ſeeing the Rights of Blood *nulli civili vinculo ſint obnoxia*, are not ſubject to any Civil bond [c]. Why ſo great ſtreſs laid on the *jura Sanguinis*, the Rights of Blood, but upon

[a] Doctores in Can. qui jura in diſtinct. 8. & can. F. diſtinct. 9.

[b] Baldus in Authentic ad hæc C. de Uſuris.

[c] Reg. jura Sanguinis & L. 4. de ſuis & Legitimis.

upon the account of Succeſſion? ſhould this be annull'd and deſtroy'd, all thoſe Rights of Blood come to nothing. Now if the free making of Wills or Teſtaments, which is only by the poſitive Law, cannot be taken away by Statute, [d] I ſee no reaſon why Succeſſion can be taken away, which is both of Divine Right, and from the Law of Nature. If then God himſelf, whoſe living image a King is, has commanded that the Ancient boundaries, which our Fathers have ſet, are not to be remov'd, under a Curſe, how can it be lawful to take away the Rights of Succeſſions, which have been receiv'd by our Fathers and handed down to us? Why take away the right already purchas'd to another, and what he may now juſtly call his own? 'Tis truly the voice of all Lawyers, univerſally receiv'd as a moſt ſure Rule in their Schools, that the *Natural Laws or Rights* are immutable; for ſay they, a Prince cannot diſannul either the Law of Nature nor ſuch Laws as derive from it. So ſaid the Emperour *Juſtinian*, but indeed the Natural Laws, which have been obſerv'd equally by all Nations, having been eſtabliſh'd by ſome divine Wiſdom, continue always firm and immutable [a]. And he gives the reaſon, becauſe Nature brought forth this Law with Mankind [b]. And all who plead for Kings being free from Laws, do always except the Divine Laws and the Laws of Nature. All the Schools of the Lawyers aſſert in their writings, that the Prince is bound by thoſe Laws [c]. Which the wiſe man intimates allegorically by the *Law of the Mother*; and the *Command of the Father*. That is, the Law of Nature and the Divine Law, which is conſtantly to be obſerv'd, and whatever is from one or t'other of thoſe Laws cannot be alter'd, no not by the higheſt Powers on Earth [d].

[d] L. ita legatum F. de Conditionibus.

[a] Sed Naturalia Inſtit. de Jure naturali, gentium & civili.

[b] §. Singulorum de rerum diviſione inſunt.

[c] Accurſus in L. Princeps de legibus.

[d] Clementina Paſtoralis de re judicata: Bart. in L. ut vim de Juſtitia & Jure.

It remains to conſider the *Law of Nations* and the *Civil Law*, which I joyn together here, becauſe, as I ſaid formerly, they were both grounded on the ſame reaſon, and to ſee if any Prince can by any peculiar Statute, derogate from the Law of Nations or Common Law: Or if he can, by any Statute, annull and take away, any man's Right, which is his Right by the Law of Nations, or alſo if he can by any new Statute, take away or deſtroy the Common and Municipal Law of a Kingdom. When I ſpeak of a Prince, I mean a Prince in the Parliament or great Court of the Kingdom. For then he has the Rights of Majeſty more eminently, becauſe otherwiſe he cannot make a Law, that obliges the Subjects, nor impoſe Taxes upon them. 'Tis then a moſt ſure opinion, of all the Doctors of the Law, that ſuch things as are of the Law of Nations, cannot be annull'd or taken away by a Statute by any Prince: For the Prince himſelf is under the obligation of the Law of Nations; and therefore Ambaſſadours ought to be reckon'd by him Sacred, and he cannot make War, without a preceeding Declaration of War. Nay and in all Contracts and Bargains, which are from the Law of Nations, a Prince is as much bound to perform his part of them, as any private man, ſo that if he buys or ſells, he can be ſued to deliver up, what he has wrongfully detain'd. And as to the preſent queſtion, in Hereditary Kingdoms no precaution can debarr the Son or Brother from Succeeding [a]. For otherwiſe if a Prince annulls the Law of Nations, he will deſervedly be called and reputed the Enemy of all Nations, or of Mankind. And now I come to the *Civil Law*, which is call'd the Statutary or Municipal Law.

Princes are under the obligation of the Law of Nations.

[a] Innocent in c. Grand. de Supplend. Neligent. Prælat.

And I lay down this propoſition as a ground-work, That a Prince cannot take away the Right of Succeſſion, which by the *Municipal Law* belongs to any perſon; by Statute, Law, or Reſcript (which laſt in the time of

A Prince cannot annul the poſitive Statutary Law, altho' he himſelf is not ſubject to it.

of the Imperial Conſtitutions, had the Force of a Law) nor prejudice the true and Lawful Succeſſion. Many reaſons for this are alſo brought from the Civil Law.

The firſt reaſon why a Prince cannot annull the right of Succeſſion that deſcends from the Municipal Law.

The firſt reaſon is, becauſe a Prince Cannot Legitimate his Baſtard Son, who is of a Baſe Birth, to the prejudice of his Lawful Son, bred up in hopes of the Succeſſion; to the prejudice I ſay of him, or of the Succeſſion due to him, (tho' only in hope as they ſpeak) No, tho he ſhould make uſe of the Plenitude or full extent of his Authority and Power [b]. For to Legitimate is nothing elſe but a remedy for the Baſeneſs of ones Birth, or a taking off the ſtain and incapacity wherewith the Baſtard is affected. That it is not in the power of the Prince to do this, the Lawyers prove it thus. If the Patron be unwilling, Notwithſtanding that he has a Right only by the Civil Law to Succeed, in the Eſtates of them who of Bond-men are made Free, the Prince cannot reſtore them to the Priviledges of the Free born [c]. For one is reſtor'd to the Privilege of a Free Birth, when from one who had been a Slave, he is made a Free born Subject, in which caſe his Maſter or Patron is excluded from Succeeding to his effects after his Deceaſe, and this reſtitution to free birth both gives him a right to diſpoſe of them by his laſt Will or Teſtament, and by that laſt Will his Succeſſors are enabled to demand and poſſeſs them.

[b] L. 4. & ſequent. de Natalibus reſtituendis.

[c] Dict. L. 4. & ſeq. Liberti.

Here it is manifeſt that Succeſſion by the Law of Nations, as in the caſe of a Lawful Son, or by the Civil Law as in that of them, who of Bond-men had been made Free, cannot be annull'd by a Prince, nor can he do prejudice to his Son, in the one, or to the Maſter of the *Libertus* in the other caſe. Yea 'tis added in the text *neque invito ejus Filio*, neither can it be done againſt the will of his Patrons Son, and the words of the text are remarkable, *leaſt*, ſaid the Lawyer, *wrong be done to his Son, tho' the Patron his Father be as yet alive.* In this place, the Lawyer thinks, the Son of the Maſter might be injured, even while his Father was alive, tho' the Son had Right to the goods of the *Libertus*, but only in hope, as we uſe to ſay in Court. If then a Prince cannot prejudice the Patron in the ſmall Inheritance of one *Libertus*, nay nor his Son, *who can think that a Prince even out of the plentitude of his Power, can take away a Kingdom, in which there are ſo many Inheritances, on which the Lives and ſafety of ſuch vaſt numbers of people do depend, from the rightful Heir, or him to home it is due by Law; and adjudge it to another, who cannot ſo much as pretend a Right to it either from God or from Nature? Nay not from the Law of Nations, nor ſo much as from Poſitive Law.*

The Second Reaſon.

The Second reaſon is, Empires and Kingdoms were granted to Men, God alone being the Author, [a] and given by the Heavenly Majeſty. God who is infinitely juſt, yea Juſtice it ſelf, cannot be ſaid to have beſtow'd Kingdoms for men to rule unjuſtly. Such a Suppoſition would make two things very contrary to one another to meet in God, which cannot ſo much as be conceiv'd by any man, without the greateſt impiety; ſeeing it is not only inconſiſtent with the divine Nature, to deliver a Kingdom to any man for him to Govern it unjuſtly, but it is plainly repugnant to it. Therefore *Bartolus* hence infers, that God has given to no man the Juriſdiction or Licence of Sinning, nor of taking away unduly, what is another man's, and to give it to one who has no Right to it.

[a] L. 1. de juris veteris enucleationibus in princ. inter claras de ſumma Trinitate, & fide Catholica. Extravagant. de Majoritate & Obedientia.

Let's

Let's then maintain this Truth, That the very Eſſence of God is Juſtice it ſelf, and conſequently from the definition of Juſtice given by the Lawyers, *a moſt conſtant and perpetual will, to render to every man his own*; of this Juſtice the Prince is only a delegate, be he never ſo great. And therefore if a Prince, be the true Image on Earth of this *Eſſential Juſtice*, he can never give away the Inheritance of one man to another. JUSTINIAN delivers this Doctrine plainly. The words of his text are theſe. *Nec imperij eſt, nec Legiſlationis proprium redigere filium invitum in patriam poteſtatem, unde neceſſe eſt ut ipſe conſentiat, alias invitus ſubmitti non poteſt patriæ poteſtati* c &c. *It appertains not to the Soveraign Authority, nor to the Legiſlative, to put a Son againſt his own will under the power of his Father, whence it is neceſſary that he himſelf Conſent, otherwiſe he cannot be conſtrain'd to be under his Father's Power.* Therefore if it be no part of the Governing Power, nor of the *Legiſlative*, to take his Right from him againſt his will, (for by Subjecting a Son to the Power of his Father, the goods alſo of the Son accrued to his Father) and ſo of neceſſity the Son's Right was taken from him; how can any Emperour or King whatſoever, when there are Lawful Heirs, take away the Right of Succeſſion in his Kingdom from the true Heir, and give it to another? For a Prince is bound to the Laws *uſque ad animam & Sanguinem.* d For were any ſuch thing allow'd of by any Law, that thing might be done by Special privilege, without any Diſpenſation, as we ſpeak, againſt Law and Right. But there can be no diſpenſation againſt thoſe things, which have been introduced by the Law of God, or by the Law of Nature, nay or by the Law of Nations. And, as the Canoniſts ſay, a man cannot be ſafe, as to his Conſcience, although he ſhould obtain ſuch a Diſpenſation, but he Sins mortally becauſe he ſeizes that which of right is his Neighbours, eſpecially, if the right of that thing belong'd to another by the Law either of God or of Nature. All the Canons conclude that a Prince cannot, from the plenitude of his Power, take away an Inheritance from him to whom it belongs by Law. The Divine Law forbids us *to wrong any man*, and Commands us, *to do to others, as we would have others do to us*, Matth. *VI.* For on this great rule of Juſtice *hang the Law and the Prophets.* And ſuch as Diſinherit a *true Heir, are by the Civil Law, called offenders againſt Nature, and the Authors of Injuries.* Likewiſe *Baldus* ſays, that a Prince is a reaſonable living Creature, but if his reaſon leaves him, he ceaſes to be a Man, neither can it hurt his Laws or Authority, that he himſelf has not the uſe of Reaſon, tho' he be free from the Laws: For Laws were made by the direction of Reaſon, ſo he cannot take away an Inheritance, which appertains to one, by the Laws of God, Nature and Nations; and adjudge it to another.

Jus ſuum cuique tribuendi perpetua & conſtantiſſima voluntas.

c §. Generaliter quibus modis naturales efficiantur. Nec legiſlationis.

d Cap. ſunt quidem. c. ideo 25. q. 1.

Matth. vi. Lex xii. tabularum de ſuis & Legitimis. Baldus in L. 2. c. de ſervitute & aqua.

And if we ſearch the Divine Law, we ſhall find, as it were, the definition of a Prince in St. *Luke* XII. *And the Lord ſaid, who then is that faithful and wiſe Steward, whom his Lord ſhall make Ruler over his Houſhold.* What is a King, but the Lords Steward? Or Subjects, but the Lords Family, 'over which the King is ſet by God? So *Innocent* the Pope ſaid 'rightly, tho' in things commanded by a poſitive Law, a reaſon for that 'Law is always to be preſum'd, yet the reaſon or cauſe ought always to 'be expreſs'd in thoſe things, which are of Divine or natural right, be-'cauſe a Prince is always bound not to act againſt them, that we may 'know, whether a Prince has done it Lawfully, or not. e Yea *Innocent* goes 'farther and ſays, tho' a Prince may hinder poſitive or Civil Laws ſome-'times from taking place, yet he cannot hinder the Divine Laws, or the

Luke xii.

e Innocent. c. quanto Extravag. de Conſuetudine.

'Law of Nature, or that of Nations. And that he himſelf has a remedy 'againſt a Prince who acts contrary to ſuch Laws, *quod poſſit univerſali juſtitia uti*, that the injured perſon may be reſtor'd to his Right [d]. 'Tis moſt certain that God is more to be fear'd than the Prince, for His Power extends to both Body and Soul; whereas the Prince's Juriſdiction which is alſo Limited as to that, reaches only the Body. For God, and Nature which is from a Divine inſtinct, has infus'd into every reaſonable Creature ſome ſenſe of Juſtice and Equity, and begotten in him a will in ſome meaſure to obey him. This Natural Juſtice no Emperour, no Pope of *Rome* (who is believ'd by many, to have a plenitude of Power, and that alſo by Divine right, above Kings and Emperours) can tranſgreſs; for this Common Law participates partly of the Divine, and partly of the Law of Nature [e]. This is another reaſon given by the Lawyers, why the Imperial power cannot in any thing exceed the Laws of Nature and Reaſon [f]. Neither ſhould the Prince exceed the meaſure of the Heavenly diſpenſation, encompaſs'd with reaſon; for this were to ſlight and reproach God the Almighty diſpenſer who order'd and bounded all things by reaſon. Neither does he will any thing, but what is moſt highly reaſonable [a]. As if he had ſaid, that Kings have only an entruſted and Delegated Juriſdiction from God, to repreſent his perſon, and to execute his Judgments according to that order of reaſon, he has ſet them, and if they tranſgreſs thoſe Boundaries, Obedience to them is not to go unpuniſh'd. To this purpoſe, the Royal Prophet ſays to Kings *Pſal* ii. 10, 11, 12. *Be wiſe now therefore O ye Kings; be inſtructed ye Judges of the Earth; ſerve the Lord with fear, and rejoyce with trembling, Kiſs the Son leaſt he be Angry* &c. thus paraphras'd by *Buchanan*

At vos in populos quibus eſt permiſſa poteſtas,
Et jus ab alta ſede plebi dicitis,
Errorum tenebras depellite, diſcite verum,
Servite Domino cum tremore: Gaudijs
Et timor & Domini accedat Reverentia veſtris.

For this reaſon, in the Civil and Pontifical Law, the Pope or King cannot condemn any man, who is not Lawfully cited to appear before their Courts of Judicature; for the reaſon of this common Law proceeds as well from the Divine as from the Natural Law. For tho' God knew that *Adam* had Sinned, and had no need of any Teſtimony, or witneſs, yet he would firſt call and hear *Adam*. *Adam*, ſaid God, where art thou? What haſt thou done? And the reaſon of this Procedure is given in the Pontifical Law, for it is the Law of Nature that a guilty perſon be heard [c]; to which Conſtitution the Pope is alſo Subject [d]. And the Abbot in that place concludes, that the Pope cannot proceed againſt a Criminal without hearing him, becauſe a man is allow'd to defend himſelf by the Law of Nations, tho' others reckon that ſort of defence, to be from the Law of Nature [e]. And he who gives Sentence in a Cauſe when the Party is not cited to appear, tho' his Decree were juſt, yet he does amiſs. If then Kings and Princes themſelves, yea the Pope himſelf, are Subject to the Law of Nature, and to the common Law, they cannot annul or take it away, but are bound to keep inviolate what has been introduced by God. And which is more, a Father has not Power to do any thing in prejudice of his Son, who is to Succeed in the Kingdom. For could their Parents do otherwiſe, neither *Charles* VII. nor *Lewis* XI. had ever Succeeded

[d] Innocentius in c. qui in Eccleſiarum de conſuetud. & eum Abbas ſequitur.

Jus Commune.

[e] Can. ſana. diſt. 9.

[f] Can. Imperatores c qui reſiſtit & can. Corporis 11. q. 3.

[a] C. certum & can. non licet decem diſtinct. & can. Glorioſus. de reliquijs & veneratione ſanctorum.

[c] Clement Paſtoral.

[d] Can. quo jure diſtinct. 3. Et. can. fin. diſt. 9.

[e] Bartol. in L. filius §. Quæro quod eſt dictum F. de donationibus.

ceeded in the Kingdom of *France*, but rather *Charles* Duke of *Normandy*, a second Son. And when *Adefonſus* King of *Leon* in *Spain*, out of hatred to the King of *Caſtile*, would have left the Kingdom to his two Daughters *Sancia* and *Dulcia*, which he had by *Theraſia* Daughter of the King of *Portugal*, all the Noblemen and people of the Kingdom oppos'd it, leſt the Heirs of *Ferdinand's* Sons born of the King of *Caſtile's* Daughter, tho' theſe Sons themſelves were dead, ſhould be injur'd. *Edward* VI. ordain'd that *Jane Grey* ſhould be Heir of the Kingdom in prejudice of his Sifters *Mary* and *Elizabeth*, and obtain'd the conſent and Faith of the Nobility in her favour; but all that avail'd nothing. For after his death the great men of the Kingdom obſerv'd what Nature taught, and not what the King had commanded: *Jane Grey* loſt her Head by the bargain, and both Sifters according to the order of Birth right did Succeed in the Kingdom. *Henry* VIII. attempted the ſame thing, firſt by his Daughter *Mary*, and afterwards by the preſent moſt renowned Queen *Elizabeth*, and yet he could not break the Laws of Nature or the Common Law of Succeſſion: *For Succeſſion in Hereditary Kingdoms, is ſo truly the Right of the Succeſſor, that it is inſeparable, and cannot by any means be Sever'd from him.*

Diverſe examples of the Laws of Succeſſion being immutable in France, Spain and England.

'Tis a noted inſtance of *Agides* King of *Sparta* who having two Sons *Leontychides* and *Ageſilaus*, he would not acknowlege *Leontychides* for his Son, as having been Born after his Wife had been Ten Months abſent from him, but *Agides*, being allured afterwards by the pleaſant Flatteries and Blandiſhments of his Wife *Timea*, changed his mind, own'd him for his Son, and by his laſt Will appointed him to be King. But all that notwithſtanding, the *Lacedæmonians* would not receive him, becauſe the Teſtimony of his Father, ſeem'd to them to be contrary to Nature, and becauſe what he declar'd had not the appearance of truth; and that he had only regarded the Reputation of his Wife *Timea's* Chaſtity: And they acknowledged *Ageſilaus* the younger of the two, as he truly was the firſt born; neither was the Will or Declaration of the Father, in that matter receiv'd. Therefore no Prince whatſoever can prejudice his Subject, or take from him upon any account a Right that appertains to him; he can only [a] do it in thoſe things *quæ ſunt gratiæ*, which the Subject holds by the favour of his Prince, not that he may do an injury to any Perſon whatſoever.

In Sparta.

[a] Can. novit. de judicijs. Paulus de Caſtro. conſ. 136. & conſ. 216.

Theodoſius *the Emperour ſays, that for a Prince to declare himſelf bound by the Laws, was a ſaying worthy the Majeſty of one who Reign'd, ſo much does our Authority depend upon the Authority of Law* [b]. *Papinianus* was truly in the right, *for ſuch deeds as hurt and Blemiſh our Piety, Reputation or Modeſty, it ought not to be believ'd that we can do them* [c]. *For theſe Conſtitutions, which are againſt the Common Law, againſt Edicts, Laws or thoſe things which have the Force of a Law, are reckon'd* pro non Scriptis, *as if they had never been written* [d]. So it is clear; from the Law, that a Prince cannot by any Statute whatſoever take from *non ſubdito* one who is not his Subject, his Right, nor do prejudice to a third perſon [e].

[b] L. digna vox de legibus.

[c] L. filius de Condit. Inſtitut.

[d] L. Conditiones, de conditionibus Inſtitut.

But it is more ſharply diſputed, as I ſaid among the Doctors of the Law, whether or not a Prince can take from his own Subject, what is his Right, ſome are for the Affirmative, if it be done for the good of the Publick. But others of a greater Reputation among them, think it not to be allow'd, even in that caſe, unleſs Satisfaction be made the perſon, from whom it's taken, for the loſs he ſuſtain'd. Hence came thoſe famous deciſions of the Doctors, That an Emperour or King in his own Kingdom, cannot without a juſt cauſe, diſpoſſeſs his Vaſſal of his Fief, which he holds

[e] Innocent in c. Novit. de judicijs. Ia. F. & ibi Bartol. F. de pactis. & Innocent. in c. Qui Eccleſiarum de conſtitutione.

of

'Law of Nature, or that of Nations. And that he himſelf has a remedy 'againſt a Prince who acts contrary to ſuch Laws, *quod poſſit univerſali juſtitia uti*, that the injured perſon may be reſtor'd to his Right [d]. 'Tis moſt certain that God is more to be fear'd than the Prince, for His Power extends to both Body and Soul; whereas the Prince's Juriſdiction which is alſo Limited as to that, reaches only the Body. For God, and Nature which is from a Divine inſtinct, has infus'd into every reaſonable Creature ſome ſenſe of Juſtice and Equity, and begotten in him a will in ſome meaſure to obey him. This Natural Juſtice no Emperour, no Pope of *Rome* (who is believ'd by many, to have a plenitude of Power, and that alſo by Divine right, above Kings and Emperours) can tranſgreſs; for this Common Law participates partly of the Divine, and partly of the Law of Nature [e]. This is another reaſon given by the Lawyers, why the Imperial power cannot in any thing exceed the Laws of Nature and Reaſon [f]. Neither ſhould the Prince exceed the meaſure of the Heavenly diſpenſation, encompaſs'd with reaſon; for this were to ſlight and reproach God the Almighty diſpenſer who order'd and bounded all things by reaſon. Neither does he will any thing, but what is moſt highly reaſonable [a]: As if he had ſaid, that Kings have only an entruſted and Delegated Juriſdiction from God, to repreſent his perſon, and to execute his Judgments according to that order of reaſon, he has ſet them, and if they tranſgreſs thoſe Boundaries, Obedience to them is not to go unpuniſh'd. To this purpoſe, the Royal Prophet ſays to Kings *Pſal* ii. 10, 11, 12. *Be wiſe now therefore O ye Kings: be inſtructed ye Judges of the Earth; ſerve the Lord with fear, and rejoyce with trembling, Kiſs the Son leaſt he be Angry* &c. thus paraphras'd by *Buchanan*

At vos in populos quibus eſt permiſſa poteſtas,
Et jus ab alta ſede plebi dicitis,
Errorum tenebras depellite, diſcite verum,
Servite Domino cum tremore: Gaudijs
Et timor & Domini accedat Reverentia veſtris.

For this reaſon, in the Civil and Pontifical Law, the Pope or King cannot condemn any man, who is not Lawfully cited to appear before their Courts of Judicature; for the reaſon of this common Law proceeds as well from the Divine as from the Natural Law. For tho' God knew that *Adam* had Sinned, and had no need of any Teſtimony, or witneſs, yet he would firſt call and hear *Adam*. *Adam*, ſaid God, where art thou? What haſt thou done? And the reaſon of this Procedure is given in the Pontifical Law, for it is the Law of Nature that a guilty perſon be heard [c]; to which Conſtitution the Pope is alſo Subject [d]. And the Abbot in that place concludes, that the Pope cannot proceed againſt a Criminal without hearing him, becauſe a man is allow'd to defend himſelf by the Law of Nations, tho' others reckon that ſort of defence, to be from the Law of Nature [e]. And he who gives Sentence in a Cauſe when the Party is not cited to appear, tho' his Decree were juſt, yet he does amiſs. If then Kings and Princes themſelves, yea the Pope himſelf, are Subject to the Law of Nature, and to the common Law, they cannot annul or take it away, but are bound to keep inviolate what has been introduced by God. And which is more, a Father has not Power to do any thing in prejudice of his Son, who is to Succeed in the Kingdom. For could their Parents do otherwiſe, neither *Charles* VII. nor *Lewis* XI. had ever Succeeded

[d] Innocentius in c. qui in Eccleſiarum de conſuetud. & eum Abbas ſequitur.

Jus Commune.

[e] Can. ſana. diſt. 9.

[f] Can. Imperatores c qui reſiſtit & can. Corporis 11. q. 3.

[a] C. certum & can. non licet decem diſtinct. & can. Glorioſus. de reliquijs & veneratione ſanctorum.

[c] Clement Paſtoral.

[d] Can. quo jure diſtinct. 3. Et. can. fin. diſt. 9.

[e] Bartol. in L. filius §. Quæro quod eſt dictum F. de donationibus.

ceeded in the Kingdom of *France*, but rather *Charles* Duke of *Normandy*, a second Son. And when *Adefonſus* King of *Leon* in *Spain*, out of hatred to the King of *Caſtile*, would have left the Kingdom to his two Daughters *Sancia* and *Dulcis*, which he had by *Theraſia* Daughter of the King of *Portugal*, all the Noblemen and people of the Kingdom oppos'd it, leaſt the Heirs of *Ferdinand's* Sons born of the King of *Caſtile's* Daughter, tho' theſe Sons themſelves were dead, ſhould be injur'd. *Edward* VI. ordain'd that *Jane Grey* ſhould be Heir of the Kingdom in prejudice of his Sifters *Mary* and *Elizabeth*, and obtain'd the conſent and Faith of the Nobility in her favour; but all that avail'd nothing. For after his death the great men of the Kingdom, obſerv'd what Nature taught, and not what the King had commanded; *Jane Grey* loſt her Head by the bargain, and both Sifters according to the order of Birth-right did Succeed in the Kingdom. *Henry* VIII. attempted the ſame thing, firſt by his Daughter *Mary*, and afterwards by the preſent moſt renowned Queen *Elizabeth*, and yet he could not break the Laws of Nature or the Common-Law of Succeſſion; *For Succeſſion in Hereditary Kingdoms, is ſo truly the Right of the Succeſſor, that it is inſeparable, and cannot by any means be Sever'd from him.*

Diverſe examples of the Laws of Succeſſion being immutable in France, Spain *and* England.

'Tis a noted inſtance of *Agides* King of *Sparta* who having two Sons *Leontychides* and *Ageſilaus*, he would not acknowlege *Leontychides* for his Son, as having been Born after his Wife had been Ten Months abſent from him, but *Agides*, being allured afterwards by the pleaſant Flatteries and Blandiſhments of his Wife *Timea*, changed his mind, own'd him for his Son, and by his laſt Will appointed him to be King. But all that notwithſtanding, the *Lacedæmonians* would not receive him, becauſe the Teſtimony of his Father, ſeem'd to them to be contrary to Nature, and becauſe what he declar'd had not the appearance of truth; and that he had only regarded the Reputation of his Wife *Timea's* Chaſtity: And they acknowledged *Ageſilaus* the younger of the two, as he truly was the firſt born; neither was the Will or Declaration of the Father, in that matter receiv'd. Therefore no Prince whatſoever can prejudice his Subject, or take from him upon any account a Right that appertains to him; he can only [a] do it in thoſe things *quæ ſunt gratiæ*, which the Subject holds by the favour of his Prince, not that he may do an injury to any Perſon whatſoever.

In Sparta.

[a] Can. novit. de judicijs. Paulus de Caſtro. conſ. 136. & conſ. 216.

Theodoſius *the Emperour ſays, that for a Prince to declare himſelf bound by the Laws, was a ſaying worthy the Majeſty of one who Reign'd, ſo much does our Authority depend upon the Authority of Law* [b]. *Papinianus* was truly in the right, *for ſuch deeds as hurt and Blemiſh our Piety, Reputation or Modeſty, it ought not to be believ'd that we can do them* [c]. *For theſe Conſtitutions, which are againſt the Common Law, againſt Edicts, Laws or thoſe things which have the Force of a Law, are reckon'd* pro non Scriptis, *as if they had never been written* [d]. So it is clear; from the Law, that a Prince cannot by any Statute whatſoever take from *non ſubdito* one who is not his Subject, his Right, nor do prejudice to a third perſon [e].

[b] L. digna vox de legibus.

[c] L. filius de Condit. Inſtitut.

[d] L. Conditiones, de conditionibus Inſtitut.

But it is more ſharply diſputed, as I ſaid among the Doctors of the Law, whether or not a Prince can take from his own Subject, what is his Right, ſome are for the Affirmative, if it be done for the good of the Publick. But others of a greater Reputation among them, think it not to be allow'd, even in that caſe, unleſs Satisfaction be made the perſon, from whom it's taken, for the loſs he ſuſtain'd. Hence came thoſe famous deciſions of the Doctors, That an Emperour or King in his own Kingdom, cannot without a juſt cauſe, diſpoſſeſs his Vaſſal of his Fief, which he holds

[e] Innocent in c. Novit. de judicijs. L. F. & ibi Bartol. F. de pactis. & Innocent. in c. Qui Eccleſiarum de conſtitutione.

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of him [a] that he is oblig'd to keep inviolate the cuſtoms of his Kingdom, and that he cannot take away any man's right, by any Statute or Conſtitution. And they give this reaſon for it, becauſe eternal happineſs is the ultimate end of all Laws, and of all Statutes, and at which all other things ought to aim.

[a] c. 1. Notandum qui feudum dare poſſunt. Bald. & gloſſa ibidem.

For God Almighty does no other ways communicate himſelf to mortal men, but by his Law which is either written, and then it is called the Divine Law, or engrav'd with a Pen of Iron and point of a Diamond on the minds of men by Nature, and then it is called the Law of Nature; Or reaſon it ſelf dictating it has been brought in for the common benefit of Mankind: and then, unleſs it be manifeſtly apparent that a publick inconveniency or miſchief attends it, it is conſtantly to be obſerv'd, and ſhould it be annull'd, that can only be for the future, for abrogated it cannot be, with reſpect to the time paſt, nor can any mans Right, which he had by the benefit of former Laws be deſtroy'd. And if a King or Emperour ſhou'd act contrary to it, obedience is not due to them, that men be not compell'd to ſin againſt their Conſcience. For ſuch Statutes are equally to be rejected, as thoſe which are enacted againſt the Laws of Nature and Religion.

* *The Statute of* France *cannot take away the right of the King of* England, *which he has to the Kingdom of* France.

But if the Right of Succeſſion could be taken away by any particular Statute, by what Right have the Kings of *England* aſſumed to themſelves alſo the title of *France*, when they know, that with and by the conſent of all the Eſtates of *France*, the Succeſſion of that Kingdom was adjudged to *Philip* of *Valois* againſt *Edward* III. when otherwiſe by the common Law, the Kingdom was due to *Edward* III. in the Right of his Mother. They muſt therefore neceſſarily diveſt themſelves of that title, or acknowledge with us, that the Right of Succeſſion cannot be taken away, neither by the Statute of the Eſtates of a Kingdom, nor by any Prince whatſoever even out of the Plenitude of his Power.

There are ſome Lawyers who think that a Prince can take away from any man a future Right, that is to ſay ſuch as he is not yet poſſeſſed of, but not a Right that is at preſent in his poſſeſſion; for they diſtinguiſh between a *jus acquirendum* and *a jus acquiſitum*. But I have already demonſtrated in the caſes of reſtoring of him that from a bondman was made free to the privileges of the free born, and of ligimating a Baſtard, that he cannot even do ſo much as that. But I ſhall treat more fully of this in my Second Book, when I come to conſider the Ligitimation of the Children of *John* Duke of *Lancaſter*. Neither can this be altogether called *jus acquirendum*, but even after ſome manner *jus acquiſitum*, a Right of which he is already poſſeſſed. For he who is Succeſſor to the Kingdom, tho only in hope, yet he is, as it were, Lord in his Fathers life time. And the offering violence to him makes the offerer guilty of the crime of Treaſon. And the Emperours Son, who is to Succeed him, is in the Canon Law called Emperour [a]. And the ſame may be ſaid of a Kings Son [b].

Diſtinctio Juris prima.

[a] Bald. in c. F. de prohibita feudi alteratione per Fredericum.

[b] 18. q. 1. & can F. L. in ſuis, & ibi Baldus de liberis & poſthumis.

Others bring alſo a diſtinction, That a Prince is always bound by the Laws of his Country, having Sworn to obſerve them becauſe of the Sacredneſs of his Oath. For as God himſelf is invocated Witneſs of the Oath given, ſo he will avenge the Violation of it. The Prince has not made his promiſe to men, but to the Omnipotent God, who can and uſes to require a ſtrict account of it. Yea moſt Lawyers are of Opinion, that Contracts, which are otherwiſe invalid, are nevertheleſs to be obſerv'd be-

becauſe of the Oath given [c]. But if the Prince has not Sworn to obſerve the Laws, he may change them, as oft as the doing it is for the publick good; or to uſe their phraſe, *ob evidentem rei utilitatem emergentem*, but not otherwiſe. *Bodinus* treats of this queſtion at large [d].

[c] Authent. Sacram. puberum.

[d] Bod. lib. 1. de Republica, cap. 8.

Laws diſtinguiſh'd into Mutable and Immutable.

That diſtinction of Laws into mutable and immutable, pleaſes me much better than their other diſtinctions. Such Laws are called mutable, which have been made by the Prince, as ſeeming to be for the publick good, but when they have not that effect, they may be changed, as reaſon and the welfare of the Community plainly ſhew; neither is the Prince bound to ſuch Laws. For Inſtance, ſhou'd a Prince forbid all his Subjects the uſe of Arms under a great penalty, as *William* the *Conquerour* did, yet reaſon tells us that not only he himſelf is not tied by that Prohibition, but alſo that he can take it away at his pleaſure. For ſhou'd a King himſelf keep this Law, the Subverſion of all Laws would neceſſarly enſue as the conſequence of it. For a Prince muſt be always arm'd for the defence of the Laws, and the Puniſhment of evil doers. And there may be a time, in which things that were for the conveniency and welfare of the State, may turn to the hurt of it. There are other Laws or Rights, which are ſo nearly allied to the Royal Majeſty, and are of the ſame date and Eſtabliſhment with the Kingdom, ſuch as thoſe which are called Fundamental Laws, which it's evident can neither be aboliſh'd nor violated, without the certain and unvoidable Hurt or Subverſion of the State. He who would change thoſe Fundamental Laws, ſuch as the *Salic Law* in *France*, or that which is concerning the Succeſſion of the next in Blood in *England*, may be compared to thoſe men, who would renew the Foundations of the higheſt Royal Buildings, without prejudice to their Structure; which attempt would certainly ruin thoſe houſes. And 'tis probable that the Princes of the *Medes* and *Perſians* had reſpect to ſuch Laws, when they ſaid thoſe Laws which were made by the Kings, *were firm* or durable, *and alter'd not*, which is thrice repeated by *Daniel* Chap. 6. now if the moſt potent King on Earth, could not derogate from his own Laws, what may be ſaid of much leſſer Kings? For *Pericles* ſaid alſo in his anſwer to the *Lacedæmonian* Ambaſſadours, that the *Attick* Laws were immutable, and from thence the *Peloponeſian* War had its beginning.

In the Canon Law it's ſaid indeed, that God inflicts Curſes on them, who make evil Laws that may hurt their Neighbours, as alſo thoſe who obſerve them, or give Judgment according to them [b]. There are ſome who not unwiſely think a Prince is not leſs, but perhaps more ſtrictly bound, than the meaneſt of his own Subjects, by all the Laws of his Country, and yet he is not to be under the puniſhment of the Laws. He is obliged in Conſcience, being hereafter to render an account to God his Judge for violating the Laws, tho' puniſhments here, cannot be inflicted upon him, nor compulſion uſed as againſt others.

[b] Hoſtienſis in ſumma de pœnitent. & remiſſione §. quibus & qualiter.

The reſult of all is this, that the Laws and Rights of Succeſſion are not to be violated by any; for they are as it were, the mutual bonds of the State, and a kind of publick agreement between Prince and People, which obliges both Parties. Yea the Prophet *Jeremiah* teſtifies that God himſelf is bound, as it were, by Laws to obſerve his Covenant with Mankind. *Bring all Nations, ſaith the Lord, that they may judge between me and my People, if I have not done what was to be done by me.* If then the King of Kings ſays, that he had done nothing, but what he ought to have done, and omitted nothing that he had obliged himſelf to do; let then the leſſer

Concluſion of this Chapter is that the rights of Succeſſion are to be kept inviolate.

Kings, who are only breathing Images of this Almighty Soveraign, ponder, examine their doings, leſt they do that which they ought not to do, leſt they ſhould aboliſh or deſtroy the Law and Right of Succeſſion, which rightfully belongs to any perſon, which is a Crime that God revenged ſo ſeverely on *Achab*, who took from *Naboth* the *Inheritance of his Fathers*. For to offer violence to the Laws, is to oppreſs the Common-wealth.

CHAP. XVI.

The moſt Serene Queen of England *cannot, by any privilege, (if any be granted her by the Eſtates of the Kingdom for naming her Succeſſor) invert or deſtroy the Right of the true Succeſſor.*

Objection. THe Objection therefore which in this Affair is made by our Adverſaries may be ſoon and eaſily anſwer'd. For allowing that the moſt *Auguſt Queen* of *England* had got a right to nominate her Succeſſor, by the conſent of the Parliament, and all the Eſtates of the Kingdom, and that all of them, had Sworn ſolemnly to own and accept of him for their King, whom ſhe even on her Death-bed ſhould name under her Hand and Seal, and that they ſhould to their power, by whatſoever means, endeavour to put him in poſſeſſion of the Government, take Arms againſt all that ſhould oppoſe him, and ſpend their Eſtates, Goods, yea and their Lives too in his Cauſe. Neither would this be new, and without Precedent ſhould the Queen do it: For the ſame power of naming a Succeſſor, was granted to her Father *Henry*, and the ſame form of an Oath was adminiſtred, for acknowledging him for their King and Sovereign Lord, whom he ſhould appoint even in his laſt extremity. For that, ſay they, which is eſtabliſh'd and confirm'd with the conſent of all the Eſtates of the Kingdom, and is once a Statute as they call it, or Act of Parliament, is as firm as an Adamant, ſo that it cannot be broken, nor any way ſhaken. For what can bind people if Acts of Parliament cannot tye or reſtrain us? Why ſhould the Queens power be leſs in her Kingdom, than that of the Kings of *Perſia* in *Aſſyria*, whoſe Laws uſed to be kept immutable and inviolable? Hence they inferr that it is Lawful for the moſt ſerene Queen, according to her pleaſure, to determine concerning her Succeſſor in the Kingdom, and to chuſe whomſoever ſhe will to Succeed her.

Anſwer. To this Objection I anſwer thus, *Henry* VIII had many and great virtues, which ſhined like Stars. Nevertheleſs he had ſome faults, particularly, his Inconſtancy both as to Religion, and in Eſtabliſhing the Succeſſion of the Kingdom. For as to the Succeſſion, which is the only point that I am concern'd in here, his firſt care was to have the Divorce between him and his Wife *Catharine* of *Spain*, with whom he had lived about Twenty years in Conjugal Society, Solemnly confirm'd in the Parliament by a Statute; and the Marriage declared void and null. And this he did in Favour of his ſecond Marriage, and of the Children who were to Succeed him by it. But three years after this was done, he got his ſecond Marriage Reſcinded, and all things which had been ordain'd, concerning his Succeſſors, by that Marriage, were granted and confirm'd to his third Marriage, and

and his Children by it, and upon failure of such, in favour of his Children to be begotten of his own Body, and in case he shou'd have no Children, he took to himself the appointing of his Successor, and that was confirm'd by the Parliament, and that it should be Lawful for him, at any time before his Death, to name a Successor, and all the Estates of the Kingdom should acknowledge whomsoever he should name, to be the true Heir of the Kingdom, and his Successor in it. But at last before he went to the Seige of *Bulloign*, he ordain'd by Statute, that if Prince *Edward* his only Son shou'd die, that first the Lady *Mary* his Daughter by his first Marriage, and her Children, and they failing the Lady *Elizabeth* who now Reigns should Succeed, and what he had condemn'd before in two Parliaments, he is forc'd at last (his Conscience urging him to do it,) to own and Recognize, and that of *Horace* may be truly said of him,

Henry viii. *at last does justice to the true and Lawful Successors.*

Naturam expellas furca, tamen usque recurret.

Nature is not to be rooted out by any means.

And he never made use of that Extravagant and unparallell'd Liberty of appointing his Successor by Will or Testament. Nay *Mary* her self did not own her Succession in the Kingdom to that Provision made by Statute, but as a Natural Princess, and who by the Natural Right of Succession, did inherit the Crown, and she would be thus Recogniz'd and confirm'd in it. Neither did *Elizabeth* Succeed *Mary*, by vertue of that clause of Provision made by her Father, but by that Natural Right, by which after the Father's decease in case there be no Sons, 'tis the Eldest Daughter's Right to Succeed, and after her the Second. Neither could they have been called Natural Soveraigns, had they ow'd their Succession to that Provision, and not to the Benefit of their Blood or Birth-right.

A liberty or power of appointing a Successor in a Kingdom is too extravagant for any man to pretend to.

However it be *Henry* VIII. being Conscious to himself of what was Lawful for a Prince with God and men, he did never Derogate either from the Natural or Divine Right, nay nor from the positive Laws of his Kingdom, in the Rules or Laws of Succession; nor did he prejudice any who had right. And tho' the same Justice is to be hop'd for, from his Daughter, whose Virtues have not only far exceeded the Commendations of her Father or Grand-father, but even of all her Ancestours, nevertheless seeing Suppositious last Wills have been sometimes Forged, and given out for real Testaments of persons Deceas'd, as was done, when her most noble Father was a dying; and Princes are never so apt to be impos'd upon by cunning Sycophants, and Flatterers, as in their Extream weakness of Body, when such as mind more what may serve their own turn, than the welfare of the State, beseige them closly; and Princes then are most Jealous and Fearful, and readiest to bestow their Favours on purpose to secure to themselves, the Dutiful concern and faithful Service of such as are about them; It may so happen also that a Prince's Judgment, when he is near his Death, may fail or be very weak: For which reasons it has been a receiv'd custom in most Nations, that no man on his Death-bed, or by his last Will, shall have power to dispose of matters of inheritance or Hereditary Estate, to the Prejudice of the true Heirs.

Henry viii. *did not use that liberty.*

As for me, I am not certainly inform'd that the most Serene Queen has gotten any such power to nominate and determine, who shall be her Successor. And I will not affirm for truth, what is commonly reported, because I know that no such thing is contain'd in the Printed Statutes. But what

what may be, and what has already been done by the Father, may probably alſo be done by the Daughter; the Common welfare of the Kingdom, and the evils and miſchiefs, which will neceſſarily attend ſuch a Nomination deſerve therefore to be ſeriouſly weighed.

To appoint any Succeſſor beſides the true Heir is the ſame thing with Election.

For if the Queen has power to name and appoint her Succeſſor, why may not ſhe alſo chuſe one? And ſo of an Hereditary Kingdom make it Elective, and by changing the Conſtitution of the Kingdom, which has been handed down by her Anceſtours, for above two Thouſand years bring in a new Model of Government. For whoever ſhall Succeed by vertue of ſuch a Nomination, will think himſelf injur'd, unleſs he have as great Power and Privileges as belong'd to his Predeceſſors; and he will never be at eaſe until he extorts theſe from all Eſtates of the Kingdom. For we commonly entertain ſuch high thoughts of our ſelves, that we cannot think that any are preferable to us, or more deſerving than we are, but that all things are due to us, which by any ſhadow of right belong'd to our Predeceſſors. Neither will this Succeſſor, who ever he be, ever give over his attempts, until he alſo obtain from the people the ſame Prerogative: And ſo at laſt the Kingdom which was Hereditary ſhall become Elective. But yet with this diſadvantage compar'd with Election, that the naming a Succeſſor comes to depend not ſo much on the Eſtates of the Kingdom, as on the pleaſure of one man, even at his laſt Gaſp, but in Elective Kingdoms no man is made King, but by the conſent and Suffrages of the Eſtates, of the Realm, and of the people. To which may be added, that if the King who is a Dying, have ſeveral Children, he that has ſuch a power granted him of naming his Succeſſor, can appoint any one of them, paſſing by the Firſt born, but ſuch a Succeſſor can never promiſe himſelf to be in Safety, but by Murdering his Brethren, as is commonly obſerv'd of the Children of the Emperour of the *Turks*.

Could the Queen name her Succeſſor, he might claim the ſame power, of naming his Succeſſor.

Of the Parliament's empowering the Queen to nominate her Succeſſor.

Again it ought to be remembred who they are who gave this Power to *Henry* VIII, or to the moſt Serene *Queen*, who now Reigns. 'Twill be anſwer'd that all the Eſtates of the Kingdom have given it. But how can they beſtow a Power of Chuſing a King to another, which they have not themſelves. 'tis a certain rule, that in ſome meaſure derives from natural equity, *nemo poteſt plus juris in alium conferre quam poteſt ipſe habeat* [a]. *No man can beſtow more right upon another than he himſelf has.* Now if the Eſtates of the Kingdom have power to conferr the right of Election upon another perſon, why do not they make Choice of a Succeſſor themſelves? why do they give away their own right to another? They ought rather to preſerve the right of Election to themſelves, than put it in the Power of another. What if the Queen ſhou'd acknowledge that Power of naming her Succeſſor (which is nothing leſs than a power of Chuſing a King) to be given by the Eſtates and people; it will neceſſarily follow, ſeeing there is nothing greater in a Kingdom, than the diſpoſing of the Kingdom it ſelf at their pleaſure, that the People are above the King, as having firſt his right from the people, and then they own him for their Soveraign. By the people I underſtand the three Eſtates, as among the people of *Rome*, I know not whether ever ſhe will aſſume ſuch a Power, but I know that ſhe ought not to admit of it. 'Tis undoubtly the part of a good Citizen, (as *Auguſtus Cæſar* us'd to ſay of *Cato*) not to alter the preſent State of the Republick; ſo I ſay, that it is the part of a good Prince to Govern his Kingdom by the ſame Laws, by which he receiv'd it.

[a] L. Nemo de regulis juris.

But

But to proceed farther, neither can the most Serene Queen take more right to her self from this power, nor can the Estates by any deed give her more, than the Estates themselves, assembled in a full and free Parliament in which she is present and consenting, that is she and they concurring together, have. But this is certain, that she cannot even with the consent of all the Estates, overturn the Fundamental Laws of the Kingdom. I said the Fundamental Laws, which are of as long a standing as the Kingdom it self, and have been confirm'd by a constant Succession of Ages and men, such as that Law concerning the Succession of the Kingdom, which belongs to the next of Blood, of *William* the *Conquerour*. This Law was made by the *Conquerour* in the *Infancy of the Kingdom* it self. In like manner the *French* call their *Salick Law* the *Fundamental* Law of their Kingdom, from which neither the King himself, nor all the Estates in Conjunction with the King can depart. For Instance, if the King with the consent of all the Estates and Parliaments of that Kingdom, should by a Statute provide and ordain, that after his Death, the Succession should be devolv'd on a *French-man*, a *Spaniard*, or any *English-man*, or that that Kingdom which is Hereditary, should be Elective; no man in his right Wits will think that he can do this, even with the consent of all the Estates. *Catharine* Daughter of *Charles* VI. was with the consent of all the Estates of *France* Married to *Henry* V. King of *England*, and for her Portion it was expresly provided, that after the death of his Father in Law, *Henry* V. shou'd Succeed to the Kingdom of *France*. But this was afterwards by them revok'd, because, as they said, it was against the Fundamental Laws of the Kingdom. How often have the Laws and Statutes for Abdicating the true Heirs of the Kingdom, and substituting others, been Abolish'd? The right of the Kingdom of *England* and the Succession in it, was by a special Statute, settled on *Henry* IV. and his Heirs. But this was revok'd by a new Statute in behalf of *Richard* Duke of *York* and *Edward* IV. his Son, and the right of Succession was ordain'd to continue in the Family of *York*. Again *Richard* III. who was declared by the Parliament to be their true and rightful King, had the Succession in the Kingdom, by a publick Statute given to him, and his Heirs, and nothing follow'd upon that Statute. For he being kill'd by *Henry* VII. with his Life the Kingdom and the right of Succession in it, was lost to his neareſt Heirs.

The Queen cannot with the consent of Parliament, or all Estates of the Kingdom, annull or destroy the fundamental Laws of the Kingdom.

In ipsius, regni exordiis.

The King of France, cannot even with the consent of all the Estates annul the Salic Law.

Henry VII. was declar'd King, and by a publick Statute the Succession was establish'd and setled on his Posterity, and yet he was not satisfied with this Statute, nor could he think himself secur'd of the Kingdom, until he married *Elizabeth*, Daughter and Heir of *Edward* IV. and thereby united the Rights of both Families of *York* and *Lancaster*, and as the Lawyers speak *had consolidated* that Right, first in *Henry* VIII. who was Son to them both, and then in *Edward* VI. and his Successors.

'Tis certainly a new and unprecedented thing, and such as the like had never been heard of before, that a free and full Power to dispose of the Kingdom, suppressing as it were the Right of both Families, should be given the King himself by two or three Statutes. But even that Statute also vanish'd into smoak, for the Eldest Daughter *Mary* and afterwards *Elizabeth*, *Edward* that most excellent Prince being dead, did Succeed. Not upon account of that Statute. For then they had not been, nor could they have been call'd natural Soveraigns. For this reason, because they who are call'd to the Succession, by any special privilege that is allow'd

Such as owe their Succeſſion to a Statute cannot be call'd natural Princes.

them or by virtue of any Statute in favour of them, are not natural Princes: But only ſuch as Succeed in the Kingdom by Nature and the Right of Blood or Birth, which can never be taken away by any civil Bond or Statute. For there is a vaſt difference between Nature and any Statute of men. Nay both the Queens, *Mary* and *Elizabeth*, in the very beginning of their reſpective Reigns, in their very firſt Parliaments, took care to clear this point, that it was not by virtue of any Statutary proviſions that had been made, but by the ſole Right of Succeſſion, as Heirs deſcended of *Henry*, that they had their acceſſions to the Kingdom. I have been the more particular in this affair, that all men may be ſatisfied, that nothing ſtable and firm can be drawn from acts of the Parliament of *England*, ſeeing they are liable to ſo many changes and innovations. And that *Henry* VIII. in other reſpects a great Prince, ſhould aſſume to himſelf in the Parliament, and be content to accept of ſuch privileges from the Parliament, when at the ſame time he and he only could do every thing in the Parliament, and gave life to all its doings. Wherefore in relation to the Succeſſion in the Kingdom, recourſe muſt always be had to that general rule, to wit, That the next in Blood to the deceas'd King Succeed, as has been hitherto obſerv'd from the firſt beginning of the Kingdom.

The invalidity of Parliament Statutes in relation to the Succeſſion.

If the Power of appointing a Succeſſor in the Kingdom be given the Prince the Power of alienation muſt alſo be given him.

Another reaſon is near a-kin to thoſe I have already mentioned, that if we grant to a Prince the choice and nomination of a Succeſſor, at the ſame time we put it alſo in his Power to alienate the Kingdom from the true Heir. And if he can alienate the Kingdom from the true Heir, he can certainly give away part of it; For the Laws are clear in that matter, that he who can Lawfully do the greater may as Lawfully do that which is leſs: And yet the Kings even with the conſent of the Parliament cannot alienate the City of *London*, nor any other City, much leſs can they alienate the whole Kingdom. Neither were Kingdoms ſo given to Kings by God Almighty, as that they were free to uſe or miſuſe them at their pleaſure; but only that they ſhould lawfully and juſtly govern the people in them. Therefore Kings at their inaugurations uſe to bind themſelves ſolemnly by Oath, that they ſhall not alienate any thing of the goods of the Kingdom, its Counties, Lordſhips or Rights, but that they ſhall preſerve the Rights and Laws of the Kingdom intire and inviolate [a]. And he who violates his Faith, given to his Subjects and confirm'd by publick Oath, becomes guilty of perjury, both before God and man. The Lawyer is in the right, when he puts us in mind in relation to Curators of any State or Commonwealth, that it's Condition cannot be chang'd by the Pacts of theſe Curators [b]. And ſeeing a King has the Adminiſtration of a Kingdom from the Omnipotent God, no doubt God will require from him, what men uſe to require from other Adminiſtrators, neither is the power of Alienation a concomitant of Adminiſtration [a]. The King then as the peoples Guardian, ought to obſerve that Rule which is Obligatory on all Guardians, to wit, that he ſhould defend and procure the good and ſafety of his people, as it were, of a Pupil; not to Force the Subſtance of her Pupils or Subjects from them, or Alienate their Hereditary Eſtates, which neither Tutors nor Curators are permitted to do. To Alienate is nothing elſe, than to make away that to one, which by right belongs to another. Nay *Hottoman* [b] maintains that Alienating or Transferring into another Family is not allow'd of, even in Elective Kingdoms. And yet there is no ſuch regard due to Lands, and Towns, as ought to be had of Subjects and Free-born

[a] C. intellecto, extravag. de jurejurand.

[b] L. 1. §. Jus Reipublic. de adminiſtratione rerum ad civitates pertinentium.

[a] L. contra 8. de pact.

[b] Quæſtion. de illuſtr. quæſtion.

born men. 'Twould be doubtless very Tyrannical, to Alienate free men against their will, and perhaps put them in the power of a Tyrant, when it was not Lawful for Patrons to do so by them, who had once been their Slaves, even these could not be put under the Jurisdiction of others c. And by the *Feudal* Law, which the most famous Nations in *Europe* make use of at this day, it is not Lawful for a Vassal to Substitute another in his Fief or Free-farm, much less for his Superiour to do it; least the right which is in a Vassal that's a Free man, should against his will be devolv'd on another; and he himself constrain'd to do Service to a new Lord, whom he had not formerly acknowledg'd for his Lord b.

c L. generaliter de fide commissariis Libertatibus.

b Tit. 22. §. 2. lib. 1. feud. & tit. 2. & 6. 54. & tit. 34. & §. 3. lib. 11. feud.

Finally *Bodinus* also, who was exquisitely well skill'd in the affairs and Government of *France*, says, that the Prince had not right, no not even with the consent of his Parliament or all the Estates of his Kingdom, to alienate Towns, Lands or any thing that belong'd to the publick; And he expresly bears witness, that the King cannot do it, neither by his last Will, nor by way of Gift, or Donation *causa mortis, neque inter vivos*. And all who have written of the rights of the Regal Power, acknowledge a revocatory action to be of right allow'd to a Successor. For that is also the Fundamental Law of the Kingdom that a Prince cannot Alienate any part of the Royal Patrimony, and the King also Swears to this when he is inaugurated.

In France *the King cannot even with the consent of all the Estates of the Kingdom alienate any part of it.* Bodinus.

If then the King cannot transferr a Town, Land, Province, or a Jurisdiction of the Kingdom, to another from the rightful Heir, neither can he annul or take away the Fundamental Laws of the Kingdom, how shall he Alienate the whole Kingdom, and the whole Succession in it, yea and the patrimony of it, whole-sale, contrary to all right and Law? how can he Alienate his Subjects, who are free born, *and Free-men are not at all to be Sold, cum liberorum hominum nullum est commercium* c? Suppose that *Henry* VIII. by his last Will, had made *Ireland* free, to have a King of its own, and on his Death-bed had separated it from the Crown of *England*, would the *English* after his Death have approv'd of, or Ratified his last Will? But if such an impotent and down-right Tyranical power, is allow'd to the Estates of the Kingdom, and its King, by what right can the Kings of *England* arrogate to themselves the Scepter of *France*, when they know themselves to be excluded, by the unanimous consent both of Parliaments and Kings themselves?

c L. liber homo de verbor. signif. L. si emptione de contraemptis.

Of the true import of that clause, by which the Nomination of a Successor was granted to Henry. viii.

It remains that we weigh carefully the full importance of the words of the publick Acts and Statutes of *Henry* VIII. concerning the Succession. These are the words, 'For avoiding Ambiguity, Doubts and 'Questions concerning the Legality of the Succession and Posterity of 'the Crown; then follows the power granted. Be it enacted, that the 'Kings highness shall have full and free Power and Authority to Give, Dis'pose, Appoint, Assign, Declare and Limit, by his gracious Letters Patents 'under the great Seal, or else by his Highness's last Will in writing and 'signed with his most gracious hand, at his only Pleasure, from time to 'time hereafter, the Imperial Crown of this Realm and all other the 'premises, to be, remain, succeed and come after his Death, and for 'lack of lawful Heirs of his or his Childrens bodies, *&c.* to such person 'and persons in remainder or reversion as shall please his highness, and 'according to such Estate, and after such Manner and Form, Fashion, 'Order or Condition, as shall be Expressed, Declared, Named and Limited 'in his highnesses Letters Patents, or his last Will, *&c.* and the Estates of 'the Kingdom promise that they shall adhere to, and obey the Person

'so

'ſo nominated and appointed by the King, as their true and Lawful 'Lord, as freely as if he were the Lawful Heir. Now I ſay that by theſe words a free Power is not given to diſpoſe of the Kingdom, and to prejudice the true Heir and Succeſſor. For ſhould one receive a Commiſſion, in ſuch terms as theſe, *we leave ſuch things to his Judgment, Will, Prudence, Piety*, it is not to be thought that he who got ſuch a Commiſſion had therewith all truſt given him, or that he was impowered to do whatever he pleas'd. But ſuch words are to be interpreted according to Law and Equity, ſo as he could only do ſuch things, which a wiſe and good man might be preſumed to do; and alſo, that he make the good and advantage of the Perſon who entruſted him, the meaſure of all his Actions with relation to that truſt. No man ſure will think, that in that Commiſſion, the Power of chuſing an Heir, appointing a new Succeſſor, and Subverting the Rights and Laws of the Kingdom was granted. Thus we ſee in Embaſſies, where free and full Powers and Credentials, as we uſe to ſpeak, are given by Princes to their Embaſſadours, when this Clauſe is added, and if any thing elſe muſt be done, the Embaſſadour will take care to do it; theſe words, I ſay, do not at all impower him to aboliſh Treaties of Peace or the Laws of Society, but are only to be extended to things of leſſer conſequence [a]. For theſe words, *we allow or leave ſuch things to his Will, Judgment, Prudence, Religion*, admit of this interpretation from Law, *ut optimus & prudentiſſimus quiſque fecerit, as the beſt and wiſeſt man ſhould do*, yet ſo that care be always taken of the welfare of the common-wealth [b]. Seeing Embaſſadours can do nothing but for the advantage of their Lord, that employs them. And in Law, that which ſeems to be left to the arbitrement of one, it is preſum'd that this man ſhou'd judge *ex æquo & bono*; neither do theſe things come within the general Conceſſion, which it may be preſum'd, would not have been granted, if they had been mention'd; neither does ever ſuch a privilege, include any clauſe that's contrary to the publick good and neceſſity, nay or to equity. For a privilege, conceiv'd in general terms, ought always to be conſtrued according to equity and naural reaſon [b]. Neither by theſe privileges which are granted contrary to the Common Law, is liberty allow'd for the Truſtees to extend them how far ſoever they pleaſe, ſo as to be limited only according to the Arbitrement of the Perſons to whom ſuch privileges are granted. But they are to be interpreted moſt ſtrictly, even to that degree, as that the words are to be taken even in an improper ſignification, ſo that they may agree to the common Law [c]. 'Tis alſo certain from Law, that theſe Powers which are granted contrary to the rules of Law and againſt natural reaſon, can never be extended to the prejudice of a third perſon [d]. And chiefly, if it be to the prejudice of one over whom they have no Right nor Juriſdiction, or ſuch as are not obliged to acknowledge that privilege; For no privilege ought to be ſtretch'd ſo far, as by it to do wrong to other men [e]. Neither muſt we omit that which is ſo very much to our preſent caſe, that the privilege which is granted in favour of Fathers, that they may freely and at their Pleaſure diſpoſe of their own goods by Will, is not to be ſo far extended, as that the Parent can diſinherit or paſs by his Children, who have a Right to Succeed him [f]. Indeed *Innocentius* ſays [g], That it is peculiar in a Kingdom

[a] L. Et reſpiciendum de pœnis. L. pen. de juſtitia & jure.

[b] L. in venditione §. de tempore de contemptio- L. creditor §. Lucius mandat.

[b] Jubemus nullum c. de ſacro ſanctis Eccleſijs.

[c] Super, de officio judicis delegat. cum gloſſa.

[d] Quamvis de reſcriptis, in 6. cap. paſtoralis. Et ibi gloſſa de privilegijs. c. Licet de judiciis ordinar. c. ex tutorum, de authoritate & uſu pallii. c. cum dicat Apoſtolus. & c.

ad audientiam 2 cum gloſſa de Eccleſiiis ædificandis. L. ſiquando in princ. & §. de inofficioſo teſt. [e] Leg. impuberi de apminiſtrat & peric. tutorum. [f] Si quando in princ. & §. 1. & de inofficioſ. teſtament. c. l. [g] In c. grand. de ſupplenda negligentia prælat.

dom that it devolves by Succession, that Kings may not have it in their Power by their meer Will or Testament, to deprive their Children or Brothers or other Kinsmen, descended of the Paternal Race, of their Succession. And truly these privileges, which are granted contrary to the Law of Nature are in themselves void, and do not hold in Law. For the Laws of Nature take place before all privileges. Neither is the Emperour, commanding a thing contrary to Conscience, to be obey'd [h]. These and many such reasons, not only from Law but also from natural Equity, are every where to be met with, which restrains the freedom of that privilege, and draws it to the common Law. What if the King shou'd name more Successors than one, and parcel out the Kingdom, which is not to be divided, into parts, and pull it asunder, or prefer some unworthy Person to the true Successor in the Kingdom, which he can in no wise call his own, so as to abuse it? And if that be true which *Polydore* and some other writers have said, that the Kingdom of *England* is the Kingdom of God, care ought certainly to be taken by all means, that nothing be done, in respect of the Succession, that is either against God or contrary to his Laws. Moreover that privilege, if any such is given the Queen by the three Estates, is to be understood and construed *civiliter & ex æquo & bono*, that is favourably and according to Justice and Equity. And it cannot be presum'd from her actions that she who has already had a most auspicious Reign, and whose Reign has been attended with so great good will and favour of her own people, and the admiration of all strangers, that when she is to die, she will offend against God and Man, yea, and against Nature it self, Subvert all the Laws and Rights of the Kingdom, and set the whole Island of *Britain*, and all the parts of it, by the Ears. So 'tis no way probable that she will by her last Will or Testament, appoint any other besides the true Heir or abdicate the Rightful Heir. This case *Albertus Crantzius* [a] learnedly took notice of: I shall here give you his words.

[h] Baldus in authent. habita c. ne filius pro patre.

"*Unguinus* was King of the *Goths*, whom *Haldanus* appointed to be Gover-
"nour of the Kingdom in *Denemark* after his death, leaving to *Norway* his
"Son *Hasmundus*, who was at that time an Infant; A new privilege
"or busines given to a last Will, and of which there is no precedent
"to be met with. *Novum & antehac incompertum munus Testamento*
"*datum*. 'Tis true indeed we allow that Houses, Lands, Estates, Vine-
"yards and such like things, may be bequeathed or bestow'd by Testa-
"ment, but that a Kingdom should be given by the means of a piece of
"paper is reckoned monstrous.

[a] Lib. 2. Daniæ c. 4.

The disposing of a Kingdom by a last Will was lookt upon as a wonder.

And *Osorius*, who wrote the History of *Emanuel* King of *Portugal*, says that by the Laws of *Portugal* it was expresly provided, that their Kings on their Death-bed, (which is commonly attended both with weakness of body and mind) should not only, not dispose of the Kingdom, but that they could not alienate things that were properly the Kings, such as precious Stones, Pearls, Gemms or the Royal Furniture, and whatever other things were valued by Kings: Because, as I said before, at that time they were most apt to be impos'd upon.

By the Laws of Portugal *their Kings could not so much as alienate any part of their furniture, on their death bed.*

We shall consider also the reasons, for which this ample privilege was granted to *Henry* VIII. to wit, *for the Love and favour which the King bore to the Kingdom, for preventing Seditions and Tumults, and because the King would provide such a Successor, as should govern it after his own Example*. For if he got that Power for his extraordinary love to his

Had Henry VIII. *appointed any Successor besides the true Heir, he had acted directly contrary to the expres inten-*

tion of them who granted him the Powers to name his Succeſſor.

Country, and becauſe he beſt knew what was for it's intereſt, and could moſt wiſely provide a fit Succeſſor in it ; If then he had degenerated or become an Enemy to his Country, aboliſh'd it's Rights and Laws, if he had appointed a *Mahometan* or a *Spaniard* Heir of the Kingdom, none cou'd think that he had anſwer'd the end of his Commiſſion, as became a good man to do, but rather had added fewel to his Country, which was to be in a Combuſtion, that with his own hands he had kindled thoſe Flames, deſtroy'd the Laws and Statutes of his Country, and finally that he had expos'd his Country, it's Laws and all Rights divine and humane, the Children which then were, and all their Poſterity to everlaſting ſlavery. This had been to exalt himſelf above the condition of a mortal man, and arrogate to himſelf that which they call the abſolute power of God upon Earth.

The Queen of England *is bound by her Oath, not to name or appoint any beſides the true Succeſſor.*

But there is another far greater and more weighty conſideration, I mean the Oath of God, to reſtrain the Queen, from naming or appointing any other than the true Heir for her Succeſſor For that moſt Religious Princeſs, who to her great natural endowments has added the acquired accompliſhments of good Learning, and being fully inſtructed out of the word of God, cannot be preſum'd to make her ſelf guilty of the violation of her Oath given at her Coronation, or that ſhe ſhould ſtain her ſelf while ſhe lives or her memory afterwards, by a deed ſo unworthy of her. For when ſhe was placed upon the Throne, ſhe ſwore in the preſence of the Nobility, Gentry and People, yea God himſelf and all his holy Angels being witneſſes, that ſhe would preſerve untouch'd and inviolate the Laws of the Country in their full force as ſhe found them, and govern the people committed to her charge according to the Laudable Laws and Cuſtoms of the Kingdom, and to procure the Rights and Revenues and all it's Juſt and Lawful privileges; and that ſhe ſhould not alienate them to any perſon, and that ſhe would take care that Juſtice ſhould be adminiſtred to all perſons without the exception of any. Theſe, if I am not miſtaken are the heads of that Oath; Neither can any perſon be inaugurated in the Kingdom, whether by inheritance or Election, who is not obliged to take this or ſuch a kind of Oath. The *French*, *Spaniards*, *Danes*, *Swedes* and *Polonians* require a much ſtricter oath of their Kings. When the *Emperour* is inaugurated he ſwears that he ſhall not violate the Laws of the Empire, the Pope pronouncing the words of the Oath before him; This Oath was taken by *Charles* V. when he was created Emperour. And *Bodinus* aſſures us that they are not otherwiſe receiv'd, unleſs they firſt ſwear ſolemnly to obſerve the Laws and Statutes of the Country, and that they ſhall not violate them. But *Trajan* alſo himſelf the Glory and Ornament of Emperours, tho' not ſo happy as to have been a Chriſtian, ſwore ſtanding before the Conſul to keep the *Roman Laws*. So that the moſt Auguſt Queen is not only bound by the Coronation Oath which ſhe her ſelf ſware to maintain the Laws of the Kingdom, but alſo by the Oaths of all her predeceſſors, whoſe Heir ſhe is. And if what we have already cited from the Lawyers be true, ſhe is as much bound to keep their Oaths as her own. An heir tho' he had never given his oath, is nevertheleſs bound by the deed of his predeceſſor who ſwore the Oath. And if ſhe obliged her ſelf by this oath, not to alienate the Rights of the Empire to any other, as ſhe did, how can ſhe without violating her Oath, transfer the Right of the Crown to any other beſides the right Heir. For he who transfers the right of the Crown, as they ſpeak, to another, than him who by divine and

The Queen is obliged by the Oaths of her predeceſſors, as being their Heir.

natural

natural right ought to Succeed, is ſaid to alienate it, and make it over to another, and to invert the Hereditary Right of the Kingdom which he had convey'd to him, and of an Hereditary to make it an Elective Kingdom, deſtroy the Laws and Privileges of the Kingdom, which is impoſſible for him to do, and to keep his Oath at the ſame time. Moreover, if he be oblig'd to judge all his People according to the Laws of his Country, how ſhall he contrary to theſe Laws adjudge the Crown of his People to him, to whom it does not by the Laws of the Land, belong, put a new Law upon his People, and exclude the true Heirs, who by the Laws of the Land have a right and call to the Succeſſion. This would be to Reign without the leaſt regard to what is juſt or unjuſt, to the Laws or to Right, and to aſſume a Power to do as they pleaſe by the People, whom God has entruſted to their care. *William* I. *Richard* I. *Henry* III. and *Edward* I. his Son, took the Oath before all the Barons, as did all the Kings who Reign'd after them, nay Queen *Elizabeth* her ſelf. So this Oath ought to be kept Religiouſly, and the Reputation and Authority of it, ſhould not be made cheap, when the greateſt Prince muſt take care not to violate it. For though the People ſhould not complain, but hold their peace, the Sins of Princes are certainly weighed by a moſt ſevere Judge, and they alſo appointed by God for deſtruction; they are revenged by men with hatred in the mean time, and by the more laſting Monuments of Annals and Hiſtory, and the Curſes of all the People, from which the *Manes* of the Wicked can never be at reſt.

The Nobility and People of England *are bound by their Oath of Allegiance, not to admit of any Succeſſor beſides the true Heir.*

No better things can be look'd for by the People, both by the juſt Judgment of God and Man, if they ſhould tranſgreſs the bounds which the Omnipotent God, and all their Fore-Fathers have ſet them, by admitting any other to the Succeſſion, beſides the rightful Heir. For as oft as the King begins his Reign, and takes this Oath, the whole People do alſo Swear either by themſelves, or their Repreſentatives, that they ſhall always obey him and his Lawful Heirs, and that they ſhall receive and own them only for their Sovereigns. And he who admits of any other but the True Heir to Inherit the Kingdom, neceſſarily makes himſelf guilty of Perjury. For there is ſcarce any of the Kings of *England* from the *Conqueſt*, who did not uſually require a ſpecial Oath from all the People, by which they Sware to bear Faith and true Allegiance to him and to his Heirs.

The People of England *did conſtantly Swear Allegiance to their Kings and to their Heirs ever ſince the Conqueſt.*

And that I may begin with the firſt King of the *Norman* Blood, *William* the *Conquerour* took care to have an Oath of Fidelity Sworn twice to him by all the People, by which they bound themſelves to be faithful to him, as their own Sovereign Prince or Liege Lord, and to his Heirs for ever. And that *William Rufus* did require the ſame Oath of them, not only reaſon, but neceſſity alſo evinces it. For, when he perceiv'd moſt of his Subjects to have an eye to his Eldeſt Brother *Robert*, 'tis more than probable that he took an Oath of them, all to be faithful to himſelf and his own poſterity, leaſt they ſhould have fallen off from him. But he leaving no off-ſpring, I ſhall ſay no more of him. Let our Neighbours then inform themſelves, who is the True Heir of the *Conquerour*, and of the other Kings to whom they have Sworn Allegiance, leaſt through culpable Ignorance before the true Sovereign Lord, and Supream Judge of all Men, they run themſelves headlong into the dreadful Puniſhments of Perjury.

And

Henry I. And *Henry* I. being under the ſame neceſſity with his Brother *Rufus*, took care in the beginning of his Reign, to ſecure himſelf in the Kingdom by taking an Oath of Fidelity from the Subjects, by which they engag'd their Allegiance to him and his poſterity. And after all his Children, beſides *Maud* the *Empreſs* Widow of the Emperour *Henry* V. were Dead, he re-call'd her to *England*, and took an Oath of Fidelity of all the Eſtates of the Kingdom to her and to her poſterity, that after her Death the Succeſſion ſhould appertain to her Children. And afterwards when he had Married her to *Jeoffery Plantaginet*, Earl of *Anjou*, and ſhe had Children of that Marriage, he made all the Eſtates and People of *England* renew their Oath of Fidelity to her, and to her Son *Henry* by Name, and that for the time to come they ſhould not admit or own any for their King, but the ſaid *Henry* and his Heirs. Our Neighbours, if I am not greatly deceiv'd, know very well who is at this day the Heir of that *Maud* or *Henry*, and in what perſon the right of their Inheritance is lodged, and conſequently they are bound by Virtue of that Oath, to preſerve their Faith and true Allegiance, ſound and entire to this true Heir, whoever the Perſon be.

Holinſhed, *in the Life of* Henry I.

Henry II. *Henry* II. who was call'd *Henry Fitz Empreſs* Son to *Maud*, when matters were compromis'd between him and King *Stephen* concerning the Kingdom, and *Stephen* was ſuffer'd to enjoy it during his life, and the Inheritance of it and the Succeſſion was adjudg'd to belong for ever to *Henry* and to his Heirs after the death of *Stephen*: *Henry* took care to have this tranſaction confirm'd by the publick conſent of all the Eſtates of the Kingdom, and all the People bound themſelves by an Oath, to keep inviolable that Succeſſion for the future, and afterwards when he made his Son *Henry* to be Crown'd in his own Life-time, and made him Swear the Coronation-Oath, he at the ſame time bound the People by Oath to him and his Heirs. And he requir'd the ſame Oath alſo of *Malcolm* King of *Scotland*, who was preſent at the Inauguration of a Prince his near Couſin, when he held the Provinces of *Cumberland*, *Weſtmorland*, and *Northumberland* in fee of *England*, who alſo upon that account did Swear Fealty to him, as he ought to have done, reſerving ſtill intire his own dignities, as *Hoveden* expreſly bears witneſs.

In his Life of Henry II.

We do not Read any thing of *Richard*'s demanding this Oath, or that the People gave it. For Writers uſe to paſs over in ſilence ſuch Solemnities as are of courſe in the beginning of every Reign. To what purpoſe ſhould they be ſo often told the ſame thing, ſeeing, as the Lawyers ſay, in ſuch caſes all things are preſum'd to be always perform'd with due Solemnity. Yet all the people, but eſpecially the City of *London*, did Swear Faith and Allegiance to him and to his Heirs, even when he was abſent from them. The *Engliſh* Annals do certifie us that upon the failure of *Richard* and his Heirs the ſame Oath was given to his Brother *John* and *his Heirs*. And to *Henry* III. *Edward* I. *Edward* II. and Third. As for *Richard* II. it's certain that he was declar'd by *Edward* III. to be his Heir with the conſent of all the Eſtates, and the People Swore Allegiance to him, as the true Heir of the Kingdom and to his Heirs.

Holinſhed *in the Life of* Richard I.

Henry IV. who Invaded the Kingdom when *Richard* II. was wickedly Dethron'd, and alſo baſely Murther'd, bound the Subjects by the Oath of Allegiance to himſelf and to his Heirs, as did alſo *Henry* V. But when the Family of *York*, with their Adherents which had been long ſuppreſt, be-

began to assert its right to the Kingdom, first under *Richard* Duke of *York* and again under his Son *Edward* IV. and some Battels were fought between the Competitors for the Crown; at last matters were agreed between them on these Terms, that *Henry* VI. should Reign during Life, but that the Succession in the Kingdom should return to *Richard* and his Heirs, and belong to them forever. And that transaction was Ratified and Confirm'd by the whole Estates of the Realm, duly and lawfully assembled in Parliament; and an Oath of fidelity appointed to be taken by all the people to *Richard*, which *Edward* also took care to have renew'd at his Coronation. That very same form of Oath, was again taken to *Henry* VII. and to *Henry* VIII. in that Statute which was in the 26 year of his Reign, in which Statute, the *Succession to the Imperial Crown of* England, *for default of such Issue* as is particularly therein mentioned, was to be according to the common Law, and the constant custom of *England, in the right Heirs of his Highness for ever.* By this Statute, I say, it is expresly provided, that this Oath should be taken by all the Subjects in the Kingdom. And that it might be the more easily taken, every parish Priest was commanded to Administer it to all the people of his own Parish. There is little reason to doubt, but that Oath was taken by all the Subjects, when we consider the manner of Life, and temper of *Henry* VIII, who never suffer'd the least contempt of his Laws or Commands to go unpunish'd, whose Orders were never refus'd by any man who minded his own safety, and who gave no man in *England* opportunity to transgress twice. So that it is most certain, that all the people of *England* were and are under the obligations of bearing Faith, and true Allegiance to their former Kings, and to their Heirs. When I say the people, I mean, all the Estates Eccleasiastical or Clergy, all the Barons, Citizens, and the whole people. So that not one of them can clear himself of Perjury, should they admit any to be their King, besides the true and undoubted Heir and Successor of all those Kings.

Edward iv.

Henry vii. *and* viii.

Neither will that pretext serve their turn, that it was their Fathers and not they themselves who swore those Oaths; for Heirs are bound by the Oaths of the Deceas'd as well as those who took them, and by their representing their persons become guilty of Perjury, if they break the Oath. Seeing, as I have said already in construction of Law, they sustain one person with the Deceas'd. *Una persona cum defunctis fungantur*, and represent the Deceas'd's person. Neither is the Nature of the obligation chang'd, by the person of the Heir, who comes in the place of the Deceas'd. And that *Subter fuge* Serves them to as little purpose, that they themselves did not Swear but their Deputies: For by the Deed of those men, to whom they gave Commission and Power, they are no less obliged, than if they themselves had Sworn. For a Proxy or Commissioner Swears always with respect to the Soul of his Constituent, so that the Guilt of Perjury passes from him that was delegated, to the person of the Principal, or him who gave the Commission and Powers.

Heirs are oblig'd to perform the Oath of their Parents.

But they urge farther, tho' it be granted say they, that they are bound by the first Oath, yet by an after Deed they come to swear, that they shall receive and own for their Lord, whomsoever the Queen shall nominate and appoint, and that the last Oath is more binding than the first, because Posterior deeds commonly derogate from former ones.

The first Oath is always to be kept.

Posteriora prioribus solent derogare.

To this I answer, that this second Oath is liable to two just exceptions, or stain'd with two gross faults, one is, that such an Oath is to the prejudice and manifest wrong of a third person, and so it cannot

A difficulty answer'd.

oblige any perſon, either by the Law of God or man. The other is, that the ſecond Oath is not of that force as to diſable or take off the obligation of the firſt: For when two Oaths are taken, one of which derogates from the other, the firſt is to be kept according to the unanimous judgment of the Lawyers and the Laws a. Nay that ſecond Oath according to the determination of all Lawyers if any man ſwears it, and if it be found to be contrary to his former Oath, is not valid, becauſe otherwiſe by ſuch a practice, it wou'd be eaſy to elude the obligation of all Oaths, by ſwearing ſomething afterwards, that's contrary to their former Oath.

a C. intellecto de jurejurando.

The Inference from what has been ſaid, in ſhort is this, let them do what they can, turn to what hand they will, and endeavour to Skreen themſelves, if it were poſſible, from the eyes of God; whether I ſay, the moſt famous *Queen* or the people of *England*, it is ſtill utterly impoſſible, that either the *Queen* can appoint any but the true Heir for her Succeſſor, or that the people of *England*, that is, the *Lords Spiritual* and *Temporal*, and the *Commons*, can never acknowledge another beſides the true Heir without violating their Oaths.

CHAP. XVII.

A Confutation of the firſt Chapter of Doleman's *Book, in which he aſſerts,* That Succeſſion to Government by nearneſs of Blood, is not by Law of Nature and Divine, but only by Humane and Poſitive Laws of every particular Commonwealth; *and his Poſitions,* That Kings have their Power from the People, *and that* Kingdoms are not Patrimonial, but conſiſt in the bare Adminiſtration.

HAving examin'd, by the Law of God and Nature, and by the Law of Nations, this affair of the Succeſſion, and whoſe Right it is, or who it is, that by thoſe Laws is called to it, our next Enquiry on this occaſion ought of courſe to have been made into the Municipal Laws of *England*. But *Doleman* ſtops me, and gives me a Challenge, to make a trial of Skill, if I have any thing to oppoſe to his reaſonings. Some years ago, a Book was publiſh'd by one *Robert Parſons*, as I hear, a *Jeſuite* who took to himſelf the Counterfeit name of *Doleman*, whether it was that by concealing his name, he might under his Mask, impoſe upon and deceive the unwary with greater Succeſs, or that he was affraid of Juſtice, as having not only with his utmoſt Cunning, Sophiſtry and Subtile devices attacqued, and endeavour'd to ruine the moſt Serene Prince's right of Succeſſion, but alſo the Sacred Authority of all Kings, and given the people a Right both to Chaſtiſe their Kings, and to gratifie whomſoever they pleaſe with the Succeſſion. I know no more of the Author of that Pamphlet, but only that beyond all peradventure, he is either an Emiſſary of the King of *Spain* or of the *Pope*, to make way either for one or t'other of them into this moſt Noble Iſland, or to put ſome other Popiſh Succeſſor upon us, as the Poets brought down a God upon the Stage; being unconcern'd what

☞ Doleman's *two Books, or the two parts of his Book.*

what this perſon be, if he can but get the moſt Serene King of *Scotland* excluded; becauſe he is one who defends the true Religion and Worſhip of God.

The deſign of his Book.

His book conſiſts of two parts, in the firſt of which, tho' he makes the Royal Power and Authority to be Subject to the People, yet the main deſign which he propoſes to himſelf is, that having once made a Breach here, he may afterwards through it more eaſily deſtroy alſo the Rights of Succeſſion, and leave it to the People to be diſpos'd of, at their Diſcretion. As for the Second part of this book, and who it is that ought to Succeed by the Municipal Laws of *England*, to that moſt Flouriſhing Kingdom, ſhall be conſider'd in its proper place.

I come now to examine the general propoſitions, which he advances towards the compaſſing his grand deſign, for by overturning them, all his Superſtructures neceſſarily fall to the Ground. And truly in his firſt part, the common intereſt of all Kings is concern'd, and none of them can think that what is ſaid of one, is Foreign to the reſt of them. So then he has ſcrap'd together Arguments from all hands, which he has varniſh'd with ſome Counterfeit appearance of truth, and made uſe of a popular kind of Speech or Declamation, that he may pleaſe and Tickle the Ears of the common people or the Mob, he aſſerts that the Rights and Enſigns of Power and Government appertain only to the people, who are alſo the ſtrength of the Empire. So that having taken away all the difference between Commanding or Ruling, and Obeying, the people may command and judge their Kings; And that guilty and wicked Kings may be puniſh'd; and he inferrs too, that at the pleaſure of the Mad Multitude, the *Bellua multorum capitum* (cou'd the Gods ſuffer any ſuch thing) they may be Chaſtis'd. He makes uſe of that ſoft word *Chaſtiſe*, whereas his whole Book breaths nothing milder than the Barbarous Cruelties, which were Villanouſly committed on *Edward* II. and *Richard* II. For he endeavours to vindicate both thoſe facts as rightly and lawfully done. Finally, if we weigh all things more carefully and exactly, we ſhall find nothing attempted in this mans new project which he has hatch'd for confounding humane Society, but deſtruction for Kings, ruine and ſubverſion for Cities, and miſeries and direful calamities for all Kingdoms. For what elſe is to be hop'd for from one of that family, the Father of which was a Calumniator and murderer from the beginning?

Doleman's project tends to confound and ſubvert Civil Society.

Doleman's firſt general propoſition.

This then is *Doleman's* firſt general Propoſition or Maxime, *that Succeſſion by nearneſs of Blood, is not by Law of Nature and Divine, but only by humane and poſitive Laws of every Common-wealth, and conſequently may upon juſt cauſes be altered by the ſame.* For proof of this, he puts an enthymematical interrogation, *what*, ſays he, *if a Mahometan or a Madman ſhould be neareſt in Blood, ſhall he Succeed?* As if he had ſaid, if Succeſſion be the benefit of Blood only, a *Mahometan* or a *furious man* might ſome time or another happen to Succeed, for he who is neareſt in Blood may be a *furioſo* or a *Mahometan*. Now if ſuch are not to be admitted, then Succeſſion by Blood is not always ſufficient, nor to be admitted of in Kingdoms. This Crafty deceiver thought, that all men would grant his aſſumption. For who could endure that a *Mahometan* ſhould be made King, one with whom we have no fellowſhip either as to Religion or civil Society; or a *furioſo* who can ſcarcely be reckon'd a man, being deſtitute of reaſon, which only makes one a man? But to what purpoſe does he bring the Inſtances of a *Mahometan* and of a *Madman*?

Madman? For he who has an unqueſtionable Title to the Succeſſion of ſo great a Kingdom, is not ſtain'd with any ſuch impiety or defect; but is a Chriſtian, profeſſing the Orthodox Faith and true Religion, and beſides that, he is a Prince endow'd and adorned with all accompliſhments of Body and Mind; but this cunning Villain has another Plot. This, (ſays *Julian* the Lawyer [a]) is the Nature of that method of arguing which the *Greeks* call a *Sorites*, that from things which are evidently true, by the ſhorteſt mutations one is brought to what is manifeſtly falſe. For grant him the firſt aſſumption, he preſently goes farther, for he will inferr that we are to make the ſame account in Law of an *Heretick*, a *Jew* and an *Apoſtate*, as of a *Mahometan*. For by the Law, both Hereticks and Apoſtates are excluded from bearing any publick Offices, and forfeit all their Eſtates and Goods [b]. And *Baldus* who was no mean Doctor in Law, makes that axiome, as it were, Fundamental, a Chriſtian King *by becoming an Heretick loſes his Kingdom, which becomes the property of any man that can poſſeſs himſelf of it.* And leaſt they ſhould want examples, I ask what Right has the King of *Spain* to pretend for the Kingdom of *Navarre*? Has he any other, but that the King of it being ſtruck with the Papal Thunder, and excommunicated by *Julius* II. as an *Heretick* loſt his Right to his Kingdom? In the publick meeting of the Eſtates of *France*, which was held at *Blois A. D.* 1588. it was provided by a Statute, that no Heretick ſhould be admitted to Succeed in the Kingdom of *France*. By the ſame argument *Doleman* inferrs, that the moſt renowned *Queen* of *England* ought not to have Succeeded her Siſter Queen *Mary*, becauſe ſhe was a Heretick, and by conſequence Papal excomunication being thundred out againſt her, and ſhe being ſtruck with that bolt, was to be pull'd down from her Throne. His inferences from the not allowing a *furioſo* to Reign are the ſame; For a Child is under the ſame incapacity, who can neither command nor forbid the doing of a thing, more than a Madman, and by the Lawyers is rank'd in the ſame condition with the *Furioſi*, and both of them are reckon'd *for one abſent*, *pro abſente* [c]. But this is not all, for he proceeds farther to Boys and Minors, who are not allow'd ſo much as to adminiſtrate their own affairs; that at laſt he may come to Women, who, he ſays, are by the word of God excluded from Government. And ſeeing there is the ſame, at leaſt a not very unlike reaſon, and it being the part of a good Judge where there is the ſame reaſon, *de Similibus ad Similia procedere* [d]. To go on to the like caſes.

[a] L. ea eſt Natura F. de Reg. juris.

[b] L. credentes tot. tit. de hæreticis & Manichæis. Et tot. tit. de Apoſtat is c. contra. c. Statutum &c. cum ſecundum leges, & tot. tit. de Hæreticis in 6.

[c] L. quamvis §. infans de acquirenda poſſeſſione & infinitis alijs. L. ubi §. fin de Reg. juris.

[d] L. non poſſunt cum ſequent. F. de legibus.

The truth of his aſſumption therefore concerning the excluding a *Mahometan* and a *Furioſo*, muſt be examin'd the more nicely leſt he ſhould think himſelf free, by ſuch a Conceſſion, to raiſe whatever Superſtructure upon it, he pleaſes. And that the grounds of this whole Queſtion, may appear in a clear light, I ſhall in the firſt place bring two Propoſitions, which I lay as foundations, and thoſe which are moſt of all conteſted between us and our adverſaries, which yet I ſhall ſo fully eſtabliſh and confirm, as that they cannot be ſhaken; and from them the futilous opinions of our adverſaries, by which they impoſe upon and delude the People, may be baffled and confuted.

The firſt propoſition in oppoſition to Doleman *is, that Kings have their Kingdoms from God as their immediate Author.*

The firſt propoſition is this, that Kingdoms were appointed by God, and that Kings owe it not to the People that they are Kings, but to God Almighty; to God, I ſay, not only as the firſt cauſe, and the cauſe of all other cauſes, as they ſpeak in the Schools, but as the immediate Author

Author of the Kingdom; and that the People owe it more to the King that they are a people, than he owes to them his being a King. I know that this Propoſition will ſeem new and perhaps hard to moſt people; But let ſuch forbear to give their Jndgment of it, until they underſtand the reaſons which I ſhall bring to confirm the truth of it. All good Chriſtians muſt own, that the reaſons that are brought from the teſtimonies of the ſacred Scriptures, are moſt firm and weigh moſt with them all. Whether the Jeſuites deſerve to be ranked among them, let themſelves ſee to that. Certainly Chriſt our Lord, every action of whoſe life is a rule to us, anſwers *Pilate* thus, who told him *that he had Power either to crucify him or to releaſe him, Thou couldeſt*, ſaid our Saviour, *have no Power at all againſt me, except it were given thee from above.* Joh. 19. *Pilate* was the Legate of *Tiberius Cæſar*, and his Governour for the Province of *Judea*, and yet our Saviour affirms plainly, that *Pilate*'s vicarious Power, and alſo the Empire and Authority of *Tiberius*, did deſcend from God. And St. *Paul* who followed the ſteps of his bleſſed Lord ſaid, *there is no Power but what is of God* Rom. XIII. 1. And God ſaid by *Solomon*, *By me Kings Reign*, Prov. VIII. I have cited already many other texts; And many more may be brought from Scripture which will ſatisfy good men. But perhaps I know not, how dexterouſly theſe Jeſuites may elude the Teſtmonies of Scripture, and wreſt them to a quite other ſenſe. Let us then take a view of the beginnings, and progreſs, and turn over the Annals, or Ranſack all the Monuments of the Hiſtories of all Kingdoms, and People, and we ſhall find this propoſition of mine to be moſt true.

My poſition prov'd from Scripture.

Joh. xix.

Rom. 13. 1. Prov. 8.

Among the *Iſraelites*, the People which God took for his own Inheritance, my adverſaries I think will eaſily grant me, that that people had no part, no hand in appointing their Kings. God alone appointed *Moſes* to be a leader and King to his people, when they knew nothing of it, yea when they refus'd him; for he is called King of Gods people *Deut.* XXXIII. How oft did that people ſtrive againſt *Moſes*, and contradict him? And when God had ſaid that he would deſtroy them, becauſe they were a ſtiff-necked people, *Exod.* XXXII. and promiſed to ſet him over a much greater People, *Moſes* beſought the Lord for them, and that he would blot his name out of the book of life, rather than deſtroy the People, which he had brought out of *Ægypt*; leſt thereby occaſion ſhould be given the *Ægyptians* to inſult and blaſpheme, and ſay, *that for Miſchief did he bring them out to ſlay them in the Mountains, and to conſume them from the face of the Earth.* Here it is evident that *Moſes* was not only made ruler over that people as their Commander, but that if the whole multitude had, as they deſerv'd, been deſtroy'd, *Moſes* would have got the Command of a much greater people from God himſelf immediately, as his only Author. At the Prayer of *Moſes*, *Joſhua* was appointed by God alone, to lead and Command the whole people, without ſo much as the knowledge or deſire of that people. If our adverſaries ſhould ſay, That he was only Captain, or leader of the people, but not their King; this is only to quible about a word, ſeeing the ſame regal power was lodged in them both. For the Royal Power, of judging the People, and leading them forth to War, did no leſs belong to thoſe Captains, than it does to Kings. After the death of *Joſhua*, the people did not ſet Judges over themſelves, for thoſe important affairs, but had their recourſe to God; who being conſulted by them rais'd

Moſes *was given to be a Leader and King to God's people without their knowledge and conſent.*

Deut. xxxiii.

Exod. xxxii.

Joſhua *and the reſt of the Commanders and Judges of the People of* Iſrael, *were rais'd up by God, without the previous knowledge or conſent of the People.*

Judg. iii. &c. them up deliverers. And through the whole Book of *Judges*, thoſe Judges, who reſcued and deliver'd the Children of *Iſrael*, from the Slavery which their oppreſſors brought them under, and Judg'd the People, are ſaid to be rais'd up by God. Did not *Gideon*, *Jephthah* and the reſt of the Judges, receive their power from God only? What is more frequently to be met with, throughout that whole Book, than theſe words; *And the Lord rais'd them up a deliverer or Saviour, who deliver'd them?* Did not *Gideon* refuſe the Kingdom when the People offer'd it him, becauſe Kingdoms were beſtow'd only by God? *I will not rule over you, neither ſhall my Son rule over you, the Lord ſhall rule over you.*

Judg. viii.

Saul was appointed by God to be King, and Anointed by Samuel, *without the Peoples knowledge.*

David choſen by God to be King.

We come at laſt to the Kings who Reign'd over God's People, when the People wearied of their former Government, deſir'd that God would give them a King, did they themſelves ſet a King over them? And was not *Saul* rather appointed by God, when the People knew nothing of the matter, and Anointed to be their King by *Samuel?* And afterwards *David*, who was likewiſe choſen by God, and oppos'd by the People, who follow'd the houſe of *Saul* againſt him Seven Years together. And the Kingdom was confirm'd to the Off-ſpring of *David*, not by the People, but by the Lord. Neither did the People in that Kingdom ever aſſume to themſelves, the right or power of naming or appointing a King, or any Succeſſor in the Kingdom. But if the Authority of the ſacred Hiſtory is not ſufficient, and does not weigh with theſe men, let them ranſack the prophane Hiſtories.

The Aſſyrian Monarchy.

Nimrod is ſaid to have Reign'd by force, and not by the conſent of the People, and, as the Lawyer ſaid, nothing is more oppoſite to conſent, than force and fear are . And ſo were other Empires conſtituted. If they will ſay that theſe are obſolete, becauſe ſo very Ancient, let them take notice how *Dido* rais'd the *Carthaginian* Empire, and whether the People choſe her who Reign'd over them, or only follow'd her as their Commander. *Virgil* elegantly reſolves this Queſtion [a].

[b] L. Nihil conſenſui, de reg. Jur.

The firſt foundations of the Carthaginian *Empire.*

[a] Lib. 1. Æneid.

His commota fugam Dido, *Sociosque parabat:*
Conveniunt, quibus aut odium crudele Tyranni,
Aut metus acer erat; naves quæ forte paratæ
Corripiunt, onerantque auro, dux fœmina facti.

Mov'd by theſe things her truſty Friends unite,
And joyn with Dido, *and aſſiſt her Flight;*
Some mov'd with fear, and ſome inflam'd with hate,
With weighty Gold a ready Fleet they Freight,
Off goes Pigmalion's *hope, a Womans mind*
That gallant Act and brave Revenge deſign'd.

The People then follow'd her, but pray what People were they? Even ſuch as could not live in their own Country for Tyranny and Oppreſſion. But if we would know whether the People gave Laws to their Queen, or the Queen gave Laws to the People, we may be clearly reſolv'd in that point out of that ſame Book. For *Dido*, as he ſays,

Septa armis ſolioque alte ſubnixa reſedit,
Jura dabat, legeſque viris, operumque Laborem
Partibus æquabat juſtis, aut ſorte trahebat.

Beſet

Beset with Guards she took the Lofty Throne,
Intent on strength and growing Empires thence
Her orders right and equal Laws dispence,
Her prudent Cares their proper tasks impose,
And each his Interest and Employment knows.

Æneas restor'd the Kingdom of the *Trojans*, or rather rear'd up a new Kingdom in *Italy*, call'd at that time *Latium*. Did he get this Empire and Right from the People? For *Virgil* says of *Æneas* as he had before said of *Dido*.

The Trojan *Kingdom in* Italy, *was founded by* Æneas.

Atque hic ingentem comitum accessisse novorum,
Invenio admirans numerum, matresque verosque
Collectam exilio pubem, miserabile vulgus
Undique convenere, animis opibusque parati
In quascunque velim pelago deducere terras.

Lib. 2. Æneid.

And here I with a strange amazement found
My former Crew with vast Accessions Crown'd,
Husbands and Wives and helpless Infants fled,
A wretched Mobb by common dangers led,
Each ready with his heart and small Estate,
O'r Lands and Oceans to attend my fate.

And above speaking of the Erecting of that Kingdom [c].

[c] Lib. 1. Æneid.

Bellum ingens geret Italia, *populosque feroces*
Contundet, moresque viris & mœnia ponet.

He'll wage great Wars in Italy, *subdue*
Fierce Tribes, and give them Laws and Cities new.

And the same Author [d],

[d] Lib. 3. Æneid.

Æneadasque meo, nomen de nomine fingo.

I then for them a proper Title fram'd,
And them Æneans *from* Æneas *nam'd.*

In both Instances then it is certain that the King gave the People new Habitations and new Laws, that the People follow'd their Commander, and willingly submitted to, and obey'd his Commands; and he being their Leader, under his auspicious Conduct, they found a new Country, and Wall'd their Towns. 'Twill never be found in any of those Instances, as I think, that either one or t'other of those above nam'd Sovereigns receiv'd their power from the People, or that the People gave Laws to either of them. But for that end that they might be a People, they follow'd those Commanders, and got themselves settled in another Country.

The

The Inſtance of Romulus *and the* Romans.

The like may be ſaid of *Romulus*, did he build *Rome* at the command of the People, or receive the Kingdom from them? There is no mention of any ſuch thing in any Author. *Virgil* tells us.

Romulus accipiet gentem & mavortia condet
Mœnia——
——*Romanoſque ſuo de nomine dicet* e.

e Lib. 1. Æneid.

Thence Romulus ſhall take
A ſtout Brigade and Albans *walls forſake.*
Build a new martial fortreſs and proclaim
Them Romans *from his own Immortal name.*

For after he opened his *Aſylum* or Sanctuary for all obnoxious people, they flock'd to him from all places, that they might be ſafe from violence under his protection, and from him they are called *Romans*. So then *Romulus* ow'd not his Empire to the *Romans*, but they were indebted to *Romulus* that they were *Romans*.

Theſeus, Cadmus *and other ancient founders of Kingdoms had not their Power from the People.*

I can bring the ſame accounts of *Theſeus* and *Cadmus*, and moſt other founders of Kingdoms, 'twas much after the ſame manner that they made themſelves famous. And our Neighbours themſelves may ſay the ſame thing of their own *Brutus*, (if ever there was ſuch a man) that gave this Iſland the name of *Britain*, and began a Kingdom in it. But tho' the riſe of the greateſt Rivers are ſometimes obſcure, and oft times are not known, yet the People wherever they found a man of Courage, who cou'd ſecure them againſt violence; or a juſt man, from whom they expected an impartial diſtribution of Juſtice, they followed him of their own accord, and yielded themſelves up to him for Subjects; and that King made a Kingdom for himſelf of that people. Theſe inſtances may ſuffice for the moſt ancient times, and ſo very ancient Kings may ſeem very remote from us by ſuch a length of time, in which nevertheleſs we ſhall find the ſame manner of founding any Government at firſt, and the ſame Laws of Obeying and Commanding. But latter examples of which we have greater certainty, may convince us, that the people never gave Laws to their Kings, but only receiv'd their Laws from them. We ſhall examine this matter with ſome exactneſs, and yet need not go farther than *England* for Inſtances.

* *Of* Hengiſt *the firſt Commander of the Engliſh Saxons in* Britain.

HENGIST was the firſt that erected a Kingdom of the *Engliſh Saxons* in *Kent*, can it be ſaid that he receiv'd his Power from the People, or that his dignity was conferr'd upon him by the People? For *Hengiſt* infeſted the *Britiſh* coaſts with three Privateers, the People here had no power over him, but only ſome wandering and needy Pirates follow'd him as their Captain. He commanded them, and being invited by *Vortigern* to his aſſiſtance againſt the *Scots* and *Picts*, and to put a ſtop to the Succeſs of their arms in *Britain*, who had greatly annoy'd the inhabitants of it, and being hired to ſerve in the War he brought over many other *Saxons* with him. They were not as yet a people, they had no power over him, but were moſt obedient to him. The *Scots* being beaten back by his Bravery and Conduct, he obtain'd from the *Britains* at firſt *Kent* for his own people to ſettle in, and afterwards he got the Country upon the *Humber*, and there he erected his

King-

Kingdom; In ſo much that having turn'd his arms againſt the *Britains* he at laſt poſſeſs'd himſelf of the Country, and gave it to his own people to inhabit. And this was the beginning of the *Engliſh* Kingdom. Pray when did the people here chooſe *Hengiſt* for their King? when did they transferr the Power to him? Did not *Hengiſt* rather make himſelf a Pirate, and bring over his Country men from *Saxony*, and purchaſe Seats for them, and at laſt made them a people, rather than the people rais'd him to his power and Authority.

The riſe of the Engliſh Kingdom.

The ſame things may be ſaid of *Rollo*, who was, as it were, another founder of that Kingdom. He was given by their King to be a General or Commander of thoſe people, who by reaſon of their poverty at home, left their native Country by Companies, to find out better Countries to ſeat themſelves in. He at laſt got *Normandy* to himſelf and his Poſterity after him, not as a gift from the people, but of the King of *France*, *Charles* the *Simple*, and for that cauſe became his Vaſſal, ſo that no man can ſay that *Normandy* was beſtow'd on their Dukes by the people.

Rollo *another founder of the* Engliſh *or* Norman *Kingdom.*

William the *Conquerour* the Sixth after *Rollo*, perceiving *England* to be in a Fluctuating Condition, like a Ship without a Pilot, entertain'd hopes of poſſeſſing himſelf of that Kingdom. And without being obliged by his own people, or invited over by the *Engliſh*, he liſts Souldiers where-ever he cou'd have them, obtains Auxiliaries from Neighbouring Princes to aſſiſt him, beſides many Voluntiers who in hopes of Spoil join'd themſelves to him uncall'd; he invades *England* with the Army he had thus got together, Conquers it, and makes himſelf King of it againſt the will of the *Engliſh*, who oppos'd him, whoſe Off-ſpring at this time, Reigns happily over it. Let any man conſider with himſelf, if the Conquerour was rais'd either by the *Normans*, or by the *Engliſh* to his Throne or royal Dignity? No man can ſay that he ow'd it to the *Engliſh*, and if any man ſhould aſcribe it to the *Normans*, he has not the leaſt Colour of Reaſon for his Aſſertion. The *Normans* never had any right, to name or appoint Kings of *England*, nor are there the leaſt foot-ſteps in Hiſtory, that ever they did ſuch a thing. And *William* undertook that Expedition againſt *Britain*, not only with his *Norman* Aſſiſtants, but alſo with his Mercenary Auxiliaries, which he had begg'd and brought together from every quarter. Now I ask what ſhare of the power had the people? What Counſel did they give? What transferring of power did they make? Or what Power, Authority or Jurisdiction receiv'd he from the people? Whether did the people give the Kingdom to *William*, or rather did not he purchaſe for his *Normans* and the people which follow'd him laſting Poſſeſſions in *England*? The Kingdom of *France* being neareſt to *Britain*, our next enquiry ſhall be concerning it.

The example of William *the* Conquerour.

Pharamond whether he was choſen by his Father *Marcomir*, to be the Captain of that Multitude, which for want quitted their own Country, or whether he made himſelf their Commander is uncertain. But what hope had they at that time, of a Kingdom or of Power; When they knew not in what Place or Country to preſerve themſelves from ſtarving? So having got together a body of men under his Command, and who ſubmitted themſelves to his Fortune, he came to the *Rhine*, and poſſeſs'd himſelf of the Country thereabouts, as far as the *Scheldt*. Afterwards *Clodion* his Son, by his Valour and Conduct, made himſelf Maſter of all the Country, as far as the *Somme*. *Merovee* carried his Conqueſts as far as the *Loire*, and gave to his Nation the name of *Franks*; becauſe they did not acknowledge the power of the *Roman* Empire, but were free from it.

Pharamond.

And his Poſterity did by degrees raiſe the Monarchy of *France*, to that pitch of greatneſs in which we ſee it at this day. Were theſe things accompliſh'd by the Government, Conduct and Advices of the people? Or rather was not ſo great a Kingdom founded, and rais'd up by one Commander, and made his own? For the Souldiers who promoted his Affairs were his own; and 'tis a degree of Folly to think, that a General receives Laws from his Souldiers, or that they can appoint or preſcribe a Law to him.

From *France* we ſhall make a trip into *Spain*, and tho' we may affirm, that the Kingdoms of the *Goths* retain'd the ſame form of Government every where; yet in *Spain* ſeeing that Kingdom was not very well Settled, the *Cæſars* being inraged that ſo great a Country ſhould be torn from their Empire, and endeavouring by War to preſerve all *Spain*, under their Subjection; nevertheleſs the Captains or Kings of the *Goths*, who were choſen not by the favour of the people, but by the Army, reign'd there. When *Julian* Earl of *Ceuta* revenged the Injury which *Roderick* King of the *Goths* did him, in committing a Rape on his Daughter, and brought the *Moors* into *Spain*, *Roderick* and the Army of the *Goths*, within the compaſs of Fourteen Months being kill'd, all *Spain* came to be poſſeſs'd by the *Moors*. Tho' this *Julian* was a moſt wicked man, yet he has left an uſeful example to all Kings, by which they may be inſtructed not to do any thing by Force and Violence, or wickedly againſt their Subjects; leſt thereby they endanger their Kingdoms with their own Lives. *Pelagius*, who was of the *Gothiſh* Blood eſcaping, retired with his Family, to the Mountains of *Aſturia*, to avoid the preſent danger; from whence he ſometimes attack'd the *Moors* with ſucceſs, and thereby acquired ſome power to himſelf. And the *Catalonians* who were Neighbouring Chriſtians, and who alſo had been driven from their own poſſeſſions by the *Moors*, no ſooner perceiv'd that *Pelagius* had got ſome Strength, and Forces, but they by little and little, repared to him, and ſo increas'd his Number, until it had the appearance of a good Army. He being thus ſtrengthned ſets upon the *Moors*, who were ſecure, defeats their great Army. And hereupon preſently takes poſſeſſion of all *Galicia* and *Leon*, and made himſelf the firſt King of *Leon*. From him the Kings of *Leon* and *Caſtile*, are ever ſince that time deſcended, by an uninterrupted Succeſſion in that Race. And thus were the Foundations of the Kingdom of *Spain* laid, which is now become ſo great, that it's even Formidable to all its Neighbours. Here again I put the queſtion whether the People gave the Kingdom to *Pelagius*, or did not *Pelagius* rather give them a Country to inhabit? And when they were not, he made them a Nation; for before he deliver'd them, they were under Slavery to the moſt impious *Arabians*?

Kings admoniſh'd.

Pelagius *the firſt King of* Galicia *and* Aſturia.

Garcias Ximenez *firſt King of* Navarre.

Henry *the firſt King of* Portugal.

Of Naples *and* Sicily.

Garcias Ximenez by the ſame means, reſcued the Kingdom of *Navarre*, by his Valour, out of the hands of the *Moors*, and gave it to be poſſeſs'd by his own people and Souldiers who ſerv'd him in his Wars. From him are deſcended the Kings of *Navarre* and *Aragon*. So it was in the Kingdom of *Portugal*, for *Henry* of *Lorrain* having killed in one Battel five Kings of the *Saracens*, he firſt erected it into a Kingdom, and brought in all his Souldiers to poſſeſs all *Portugal*. The Kingdoms of *Naples* and *Sicily*, had their riſe from *Robert Guiſcard* a *Norman* and his Poſterity; 'twere very abſurd to ſay that *Robert Guiſcard* deriv'd his Authority to poſſeſs theſe Countrys from the people. For he took the Kingdom of *Naples*, when the people were unwilling and oppos'd him, and it is as abſurd to ſay, that a General has

has his Authority from his Army. Thus was the Kingdom of *Sicily* also constituted, the *Moors* who possess'd it, being driven thence. *Cæsar* said, that it is Arrogancy to prescribe to the Emperour of an Army, for there is this difference between Ambassadors and Generals of Armies, for those govern according to the Rules, which are given them, but these do every thing according to their own pleasure.

I can also bring the like Instances of the beginnings of other Kingdoms in *Europe*, but shall pass them by, lest I should tire my readers Patience too much. 'Tis sufficiently evident from the Instances already mentioned, that the *Roman* Empire being torn in pieces, all Kingdoms were Founded and Constituted by force, and without the consent of the people, who possess'd the Countries in which they were erected. These things were done altogether by the Commanders of Armies, who shifted from one Province to another, in hopes of greater plenty. The principal Commander, and not the People, nor the Souldiers, nor the Army it self, had all the power. It cannot be said with any appearance of reason, that the Army transferr'd its power to its General, and that it made him such; but that he made them an Army, having rais'd and listed them for himself; and consequently when Lands were given them to possess for Military Services, he made them to be a people. And they Reign'd afterwards by the same measures by which the Reign was begun. But yet I would not have those things ascribed to the Commanders, but to the Omnipotent God, *whose the Earth is, and the fullness thereof*; and who raises up those great men, to Expiate the Crimes of a Sinful people with their own Blood: Or who having compassion on the Poor and Indigent, grants unto them a better Soil, under the command of one appointed by himself, to be over them. That which is so often repeated in the book of *Judges*, comes always into my Mind, *and God rais'd them up a Deliverer* or Saviour, and that such great Heroes, as constitute new Empires or Kingdoms, are never rais'd up but by God.

Psal. xxiv.

But some may say, that one cannot be a King, without the Consent of the people, no more than a people can be without such a Governour. For no man can Govern a people that refuses him, as *Numa* the second King of the *Romans* said, and therefore of necessity Kings must be chosen and appointed by the people. Should I freely own that one cannot be a King, but with the consent of the people, yet the consent of the people does not make a King, and is no cause of the Royal power, but only an accidental, and secondary one, and as the Logicians speak, *causa sine qua non*. For neither can a King govern a people, unless he have a people, or a people be under Government, unless they be a people. But those things are from the Omnipotent God, *by whom Kings reign*, and from whom all power is derived.

Objection.

Answer.

And that no man may impute inconsistencies to me, because I have said before, that Kings were instituted by the Will of the People, Nature being their guide, I own, that most of the first Empires or Governments did proceed from the Will of the people, when people did willingly subject themselves to one of greater strength and courage, that they might be more safe from fear of wild Beasts, and the violence of wicked Men. Yet seeing fear was always most effectual, some through fear, and others from their present distresses, or their apprehensions of future dangers, yielded themselves Subjects to their betters; not to give Laws to them, but that they might receive Laws from their betters, and that they might enjoy their own securely, under the safeguard and protection of them, who were more valiant or wiser than themselves.

'Tis

'Tis certain then that People did not give Laws to their King, but did with thankful hearts receive Laws from him; and that Kingdoms depend only upon God as the Author of them, who did conciliate the conſent of the People to their Head; and who did inſtitute Kingdoms even by mutual conſent of Prince and People. Neither ought it to be ſaid, that the great increaſe and growth of the moſt powerful Kingdoms were made, but by God the Author of them, as the firſt and the immediate Cauſe. Neither was the conſent of the People ever ſought, in the founding thoſe Kingdoms; but ſeeing they were the People, whoſe intereſt it was chiefly, and who it eſpecially concern'd, whoſe affairs were moſt minded, when they were led forth into new Seats and Colonies, they ſoon agreed with their Head in that, not as if they would appoint him Laws, but accept of what Laws he was pleas'd to give them, by which they might poſſeſs their Lands.

The People in ſhifting their Country, or going from one to another, never gave Laws to their Commander, but yielded their Obedience freely to the Laws and Orders which he gave them.

But yet our Adverſaries will be ready to urge againſt us, the *Lex regia* or Imperial Law, when the people of *Rome* beſtow'd all their Right, Empire and Power on *Cæſar*, and conſequently that Kings have their power from the People. But I ask them, when was that Imperial Law made? Was it not in the time of *Auguſtus Cæſar*, when the Common-wealth was overthrown by armed Force? The people of *Octavius* to complement him transferr'd to him, what they themſelves had not, that he might ſeem to hold by right, what he had poſſeſs'd himſelf of by Arms. Neither did any thing accrue to *Auguſtus* by that transferring, that he had not before. For the *Tribunitian* power, and the *perpetual Dictatorſhip* were before that in *Cæſar* the *Dictator*; Afterwards the ſame Power, but under another name fell to *Auguſtus Cæſar* when he was Emperour. And the People had nothing at that time, the Common-wealth being ruin'd, but what *Auguſtus* had already challeng'd for his own. *Bodinus* tells us of an advocate, who making a flouriſh with his Eloquence, ſaid before the higheſt Court of Judicature in *Paris*, that the people of *France* had transferr'd all their Power on the King; And for this he was ſeverely reprimanded by the Preſident, who was a learn'd man; becauſe the Kings of *France* had not receiv'd their Kingdom from the People, nor by the gift or benefit of the people, but only from God. Nevertheleſs I am not ſo unskilfull in affairs, but that I know that ſome Kings before their admiſſion to the Kingdom have receiv'd Laws, as in the Kingdom of *Arragon* and the Dutchy of *Brabant*, and other Dignities in the Low Countries: which I think ought to be kept, if they are Fundamental Laws, that is, if from the beginning they were agreed to between the Parties, and no manner of way forced from either of them. But how far Kings commanding their Subjects are to be obey'd, ſhall be diſcours'd on afterwards.

Of the Lex regia *and the Objection from it anſwer'd.*

My other Propoſition is, that Kingdoms are patrimonial, and are for an Inheritance or Patrimony to Kings, and that it is not a bare adminiſtration of the Kingdom, as the adminiſtration that a Governour has of a Province, which they have. For if we look back to the firſt inſtitution of Kingdoms, we ſhall find that Kingdoms were appointed by the Almighty and only wiſe God to be hereditary in *Abraham*, *Iſaac*, and *Jacob*: when he ſaid, *And I will give unto thee, and to thy Seed after thee, the Land wherein thou art a ſtranger, for an everlaſting poſſeſſion.* And in *David* God confirm'd the perpetual inheritance of the Kingdom with an Oath. Neither did God ever beſtow the Kingdom on any man,

All hereditary Kingdoms are Patrimonial, and do not conſiſt in a bare adminiſtration.

Geneſ. xviii. 8.

as

as a personal benefit, nor did he ever transferr it from the Heirs, but for ingratitude or wickedness, as in *Saul* and the Kings of *Israel*, *Jeroboam*, *Achab* and others, who by their Crimes did so provoke Gods Anger against them, that he turn'd away his eyes from their Posterity. I have already demonstrated sufficiently from Sacred Scripture, unless I am mistaken, that Kingdoms were ordain'd by God from the beginning to be Hereditary. And if hereditary then they are Patrimonial. For there is no inheritance, but is for a Patrimony to him who has a right to Succeed in it. And if from reason we go on to Precedents, we shall find that no man that ever was made a King, but endeavour'd to make it hereditary to himself and to his Posterity, and commonly attain'd his design, unless it was in the *German* Empire, in *Sweedland* and *Poland*, where Laws are given to their Kings by an obstinate people, and the prerogative has dwindled to nothing. If we consider the manners, Laws and Customs of the most potent Kingdoms of *France*, *Spain* and *England*, we shall find them altogether hereditary; what man is so weak as to think that *Hengist* or the *Conquerour* underwent so great labour and toils; or that *Pelagius*, *Garcias* or *Pharamond*, recover'd *Spain* or conquer'd *France*, to acquire the bare administration and be only publick Servants, of those noble Countries, which they had conquer'd by their Swords, and not rather that they might have dominion over them? Or to have been so unconcern'd for their Posterity, as not to leave them some part if not the whole Province, for gaining of which they had expos'd their persons and undergone so great fatigues, and leave them in a destitute condition? 'Twas quite otherwise, they purchas'd the Dominion of all those Provinces by their Arms for themselves, and their Souldiers who serv'd in the Wars, and rewarded their Military Services by granting them Lands and Possessions, for they were poor and knew not the use of Money. Hence fiefs had their first rise in the inundations of the Northren Nations, when they broke in upon the *Roman* Empire.

The first Institution of fiefs.

For as when the General of any Army, possess'd himself of any country, he took the whole to himself alone as Lord of it, and bestow'd on his Souldiers Lands and Estates in proportion to their Merits; not to be hereditary to them and to their Heirs, but only to be enjoy'd by them for one year or two, or at most for their life[a], as is practised at this day among the *Turks*, who commonly bestow and parcel out among their *Timariots*, those Countries that are taken by War either from the *Persians* or the Christians, at most but for their life time. After the *Timariot*'s death the possession return'd to the Emperour.

[a] C. 1. Lib. 7. de usibus feudorum.

Before the Reign of *Hugh Capet*, there were no inheritances in *France*, no hereditary possessions of Lands, no Lands were Patrimonial, they were all for a Patrimony or Property of the King; And Counts, Dukes and Barons, *Vassi* or *Vassal*; were only names of Prefectures in each Province as *Hottomannus*, *Giraldus*, *Serranus* or *Siresius* and the rest of the Writers of the affairs of *France* bear witness.

Hugh Capet *was the first who gave inheritances in* France.

Hugh Capet having driven out the Posterity of *Charles* the *great* and invaded the Kingdom of *France*, was the first who made the Dutchies and Earldoms, which before his time were meer Governments, hereditary; not only to engage them heartily to himself, but also to make them his accomplices in the usurpation of the Kingdom: Even as the first *Roman Consuls*, when they had expell'd *Tarquin*, gave what belonged to him and to his Children, for a spoil to the people, to make them

as guilty of the Crime as they themſelves were, and that they might ſtick the cloſer, and more obſtinately to the expellers of their Kings. 'Tis a true maxim that *Lucan* gives us,

Facinus quos inquinat, æquat.

Fellows in guilt Fellows in all muſt be.

De Feudis Lib. 1.

Neither were Fiefs Hereditary in any part of the Chriſtian world, before *Capet*'s time, as I have ſhown more fully in my Firſt Book of Fees, ſo 'tis certain, that Kings kept to themſelves the *Dominium* of the whole Country of which they poſſeſs'd themſelves, the *Dominium* I ſay not only *Directum* or the Superiority, but alſo the *Dominium utile* or the advantage that ariſes from their Superiority.

And none of the people had any Patrimony, or any thing that was Hereditary, but by the favour of his King, and ſo far as he out of his own meer Liberality did grant it to the Souldiers, who had deſerv'd well of him. For it is not any mans intereſt ſo much as it is his, who has Hereditary poſſeſſions, to aſcribe the Dominion and Property of them to Kings: Becauſe if that be not Hereditary to Kings, they cannot give others a good right to them. For, as I ſaid, no man can transferr more right to another than he himſelf has; and an Adminiſtrator who has only the care and charge of other peoples concerns, cannot grant the Fief or Propriety of his Pupil to another man. Seeing then it was the King who made Lordſhips Hereditary to others, he himſelf muſt needs have before that, had thoſe poſſeſſions by way of Inheritance. For as they ſpeak in the Schools, *propter quod unumquodque eſt tale, illud ipſum eſt Magis*; ſeeing the whole and every part of a thing is of the ſame nature. It follows therefore by neceſſary conſequence from what I have ſaid, that the *whole Kingdom is Hereditary to the King, and his Patrimony.* An adminiſtrator cannot give away the goods of his Pupil, or of any other for whom he is Adminiſtrator, and with whoſe affairs he is charg'd, to any other, or beſtow any thing that's Hereditary in his Fief, ſeeing Fiefs proceed from the Sole Liberality of the Lord, whoſe property it was. Wherefore if people deſire to have their Subſtance ſecure to themſelves, or to leave their Feudatory Inheritances to their Children, they are concerned by all means to maintain the truth of this propoſition as much as any Oracle of *Delphos*, which is, *that the whole Kingdom belongs to the King, not as an Adminiſtrator for others, but Simply as his own Eſtate, who diſtributes parts of it, to whomſoever he will, according to mens Merits.*

'Tis beſt for the Vaſſal that the Dominion and property be in the King.

Eſt in Dominio regis.

If a Mahometan or a madman ſhould be depriv'd of his Eſtate.

Having then diſpatch'd theſe things, I return to *Doleman's* aſſumption concerning a *Mahometan* or a *Madman*, which I ſhall anſwer from the Divine and Civil, and alſo from the Canon Law.

When Kingdoms are Patrimonial, the Succeſſion in them cannot be taken away from thoſe to whom it is due, either upon account of Madneſs or Religion; yet the Adminiſtration of the Kingdom may be denyed them if they be either *Mahometans* or Mad. That this Diſtinction may be the better underſtood from the Sacred Scriptures, Adminiſtration is to be diſtinguiſh'd from Dominion; ſo as the Adminiſtration of an Office may be in one, and the Dominion or Soveraignty to another. For inſtance, *Azarias* who was alſo called *Uzziah*; a King otherwiſe moſt Famous for his great Actions, whilſt he invaded the Prieſts office he was ſmitten with a Leproſy, and dwelt in a ſeparate Houſe, as the Lord had commanded. Now he

Dominion diſtinguiſh'd from adminiſtration.

That diſtinction founded on Scripture.

he was ejected from the Society of men, by the expreſs Commandment of God, as much as ever a madman or Mahometan was, and yet he reign'd two and Fifty years, which is a longer Reign than any other of the Kings of *Judah* had. *But* Jotham *his Son was over the Kings houſe, judging the people of the Land.* Three things are chiefly remarkable in this *Uzziah*, firſt that Kings are puniſh'd, and caſt out from the Society of men by God, I ſay by God as the ſole Judge and Avenger, and then *Uzziah* is ſaid to have dwelt in a ſeparate houſe from the People of God. The next thing is *that he was cut off from the Houſe of the Lord*, theſe are the expreſs words of the text, and what more can be ſaid either of a *Heretick* or of a *Mahometan*? As for a Madman theſe things cannot be ſaid of him. Thirdly his Son *Jotham* was over the Kings houſe, which he Ruled in the mean time, and did adminiſter juſtice to the people, which imports his having the adminiſtration of the affairs of the Kingdom for his Father. *Jotham* his Son I ſay, who was to Succeed him, and did Succeed him. This example is ſufficient to teach us, that Kings loſe not their Right to their Kingdoms either by Diſtraction, or becauſe they *are cut off from the People of the Lord*; and yet they loſe the Adminiſtration of them. But with this qualification ſtill, that whilſt they continue Mahometan or Diſtracted, the Adminiſtration be lodg'd in the hands of the next Succeſſor. The text ſays not, *that he whom the People had Choſen*, but that his Son had ſupplied the defects of the King, in the Adminiſtration of the Government. The ſame thing is intimated to us by St. *Paul.* Gal. IV. *Now I ſay that the Heir, as long as he is a Child, differeth nothing from a Servant, tho' he be Lord of all.* Here he ſays, that the Infant or Boy retains his Dominion, even in his Infancy, of all that appertained to his Deceas'd Parent, and yet he is excluded from the Adminiſtration, and all that time *differeth nothing from a Servant.* This is enough to ſhow, that the Diſtinction between Dominion and the Adminiſtration of an Inheritance, is grounded on Scripture.

2 Kings xv. 2 Chro. xxvi.

Gal. iv.

'Tis approv'd of alſo by the Civil Law, by which the Dominion continues to an Infant and Minor, to a Prodigal and to a Mad-man, but Tutors, Guardians and Curators have the adminiſtration. The very ſame diſtinction is to be met with in the Feudal Law, which is ſaid to be a part of the Civil Law. For if a Vaſſal who got his Fief for military Services which he upon the account of his Fief is bound to perform to his Superiour, ſhould himſelf be uncapable to ſerve in the Wars, if he be Deaf, Dumb, Blind or Mad, yet he can do all the ſervices whether in Peace or War, by his next Succeſſor in the Fief.

That diſtinction is receiv'd in the Civil, And Feudal Law,

This whole Caſe may be reſolv'd moſt plainly from the Canon Law, of which my adverſary ſays, he is a profeſſor. *Sancius* King of *Portugal* had behav'd himſelf too inſolently in his Government of that Kingdom, and not only profuſely ſquander'd away the hereditary Revenues of the Crown and Kingdom, but alſo thoſe of the Church; as moſt Kings in that Age, envying the too great Riches of Eccleſiaſtical perſons, did what they could to leſſen them; of which *John* King of *England*, and *Sancius* of *Aragon* are examples [b]. Whilſt the Grandees as well as the Prelates complain'd grievouſly of *Sancius* to the Pope, and deſired that his Brother *Alphonſus*, who was his next immediate Succeſſor, might be put in his place, and that he ſhou'd be Dethron'd, and the Kingdom adjudg'd and given to his Brother [c], the Pope, who was not altogether an ill man, made them this anſwer, That their deſire was in ſo far juſt, eſpecially ſeeing *Alphonſus* was the

And in the Canon Law.

[b] Joan. Mariana lib. 10. c. 2.

[c] Rodericus Sancius part. 3. hiſtor. Hiſpan.

the immediate Succeſſor, that he ſhou'd take upon him, the care of the Royal Revenues and of the Eccleſiaſtical, and that all the Revenues and Profits ſhould be committed to him, *but ſtill for the Advantage and Benefit of the King*, and that he ſhou'd be made Coadjutor to the King, that ſo he might be able to prevent any Calamities from falling on the Kingdom. Yet with this expreſs Proviſion, that the Pope intended not to prejudice *the ſaid King or his Children, in caſe he ſhould afterwards beget any* [a].

[a] Can. grandi de ſupplenda negligentia prælatorum in Sexto.

A Mahometan or a madman is to be excluded from the adminiſtration of the Government, but not from the Succeſſion it ſelf.

So the Anſwer and Reſolution of this queſtion is eaſy, That neither a Mahometan nor a Mad-man is to be debarr'd from the Succeſſion it ſelf, but only from the Adminiſtration of it. For what if that Mahometan ſhould be better inſtructed, and Embrace the Chriſtian Religion, or if he do it not in his own Life-time, yet what if he leave a Religious Prince, begotten by him? or if a Madman have Lucid intervalls, and in theſe before his Madneſs returns upon him begets Children, as *Charles* VI. of *France* begat *Charles* VII, no probable reaſon can be given for excluding theſe Children from their Succeſſion. For as the Maſter of a Family has his right of Dominion, and Dignity kept intire to him in his Family, tho' he be out of his right Wits; yet he is kept back from the Adminiſtration of the affairs of it, as long as his Phrenſie continues. Tho' *Saul* was furious yet he enjoy'd the Kingdom to the day of his death. So did *Charles* VI. King of *France*. *Uzziah* who was not leſs debarr'd from the Society of men than a Madman is, had notwithſtanding an extraordinary long Reign. Many Idolatrous Kings were admitted to Reign not only in *Iſrael*, but alſo in *Judah*. *Julian* alſo who Apoſtatis'd from, and renounc'd Chriſtianity was made Emperour, and many others of whom I ſhall diſcourſe more fully hereafter, where we ſhall have a more Spacious Field of diſputing about this Queſtion. Surely if Madneſs had excluded any man from his right, and had forthwith made room for his Neighbour, *David* might have found out a Compendious way, by *Doleman*'s Scheme, to have thruſt out *Saul* and poſſeſs'd himſelf of the Kingdom. For *Saul*'s diſorders exceeded thoſe of *Oreſtes*, as proceeding from an Evil Spirit, they roſe to that hight, that he attempted the Life, of his Son *Jonathan*. And what did *Hercules Furens*, in *Seneca's* Tragedies, that was more extravagantly Mad, than this? Or *Agave* whom *Ovid* mentions? *Nebuchadnezzar* was ſo mad, that he went a grazing with the Beaſts of the field, and yet he retain'd his vaſt Empire, and was reſtor'd to a ſound mind. Will this Crafty Sophiſter have more given to his Popes, than to the Sacred Power and Dignity of Kings, which was ordain'd by God and who are called *Gods*, *and Children of the moſt high*, and their judgments are ſaid *to be the Lords and not mans*? But in the *jus pontificium*, ſuch perſons are reckon'd Blaſphemers, who preſume to ask the Pope their Sovereign Prince as to Religion, Lord what doſt thou? [a]. Yea though he were leading vaſt numbers of Souls by troops to the bondage of Hell, there to be tormented with himſelf forever. Whereas many of their Popes ſtand recorded in Hiſtory, for *Necromancers*, *Wizzards*, *Atheiſts*, and *Deſpiſers of all Religion*, and Papiſts themſelves do not deny it. Thus much concerning a *Mahometan* and a *Madman*, whom *Doleman* only by the bye objects in the very beginning of his book, that if his Reader takes it once for granted, his other falſe poſitions will ſeem true, and be eaſily ſwallowed down by the unwary.

Divers examples concerning madmen.

[a] Canon ſi papa diſtinct. 40.

But

But ſhou'd we grant what *Doleman* asks, that the Laws of Succeſſion have been preſcrib'd and limited by every Nation, there is nothing demanded as to the Succeſſion of *England* that's contrary to the Municipal Laws or to any Statute of *England*. Nay by the very Laws of *England*, by it's own Municipal Laws, the Succeſſion of the Kingdom of *England*, is rightfully due to the King of *Scotland*, as ſhall be more fully demonſtrated in our ſecond part.

So *Doleman* has loſt all his labour in that diſputation in which he endeavours to ſhow that neither Monarchy, Ariſtocracy nor Democracy were inſtituted by God, nor derived from Nature. But that both theſe aſſertions of his are falſe I have already demonſtrated, and prov'd clearly that all Kingdoms were inſtituted by God, and that people by the inclination of Nature agreed to Kingly Government. No footſteps either of Ariſtocracy or Democracy are to be found in the Sacred Scriptures; nay St. *James* reproves the power of many, *Jam.* III. 1. Nothing can be drawn from the Law of Nature, that has any tendency either to Ariſtocracy or Democracy. Now Mr *Doleman*, allowing freely what you infer, that it's free for any Community to take what form of Government it pleaſes, and that God Almighty will give his bleſſing to it, what then? Unleſs thou wilt cut thine own throat with thine own weapon, if God has approv'd of that form of Government that is receiv'd in *England*, if he has given his Bleſſing to it, and in it the next in Blood have Right to the Succeſſion; and that this order of Succeſſion took place from the very firſt beginnings of the Kingdom; Why art thou ſo wicked, and injurious both to God and man, why doſt thou run thy fooliſh head ſo againſt the receiv'd Statutes of *England*? If thou art minded to daſh thy brains out, it is none of my buſineſs to ſtop thy mad career. For tho' nothing is more certain, than that of all forms of Government, God and Nature inſtituted Monarchy only, yet ſeeing neither Ariſtocracy nor Democrary have any footing in *England*, 'tis certain that God has bleſſed Monarchy, in that Kingdom, and thou thy ſelf confeſſeſt it; and our whole Controverſy proceeds from the Laws of the Monarchy, which took place from the very Infancy of *England*, and which have been handed down from that time to this.

Kingdoms were inſtituted by God.

No footſteps of Ariſtocracy or Democracy in the ſacred Scriptures.

Nor do they derive from the Law of Nature.

The ſame thing may be ſaid of thy other poſition; *That all men Naturally love to Live in Company*, for 'twas to no purpoſe to put thy ſelf to ſuch hard Labour in a diſpute, wherein thou haſt no Adverſary, yet in this thou forgeteſt thy ſelf, when thou ſayeſt honeſtly, That all Magiſtrates are inſtituted by Nature, and yet denieſt with the ſame Breath, that the King whom thou doſt acknowledge to be the chief Magiſtrate, and moſt fit for keeping the people in Society, is Inſtituted by Nature. I pray thee conſider how theſe do hang together; but God can make a *Caiaphas* ſometimes utter truth. However it be, thou Blunder'ſt ſadly in thy Inferences; for tho' it were true, that every People might at their Pleaſure chuſe any Form of Government, yet will it not follow, that it's Free to any People to change it when they pleaſe, into any other; as thou tacitly and craftyly Inſinuateſt that it is Lawful for the *Engliſh* to do in this, all good men differ as far from thee as Eaſt from Weſt.

Doleman *inconſiſtent with himſelf.*

For to begin then from the Sacred Scriptures, we find in them that God has ſhown his great diſpleaſure againſt *Miriam* and *Aaron*, for there Envying the Monarchy of *Moſes*, and deſiring to be made equal to him in the Government, when they ſaid that God had ſpoken by them, as well as by

People cannot at their pleaſure alter the receiv'd form of Government.

Numb. xiii. by *Moſes* Numb. XII. 1. ſo *Corah*, *Dathan* and *Abiram* repining at *Moſes*'s Monarchy over the Lord's people, form'd a Conſpiracy againſt him, and intended to introduce Ariſtocracy: But what came of it? *The Lord made a new thing and the Earth open'd her Mouth and ſwallow'd them up, and they and all that appertain'd to them*, whether Perſons, Houſes or Goods, *went down Alive into the Pit.* Numb. *XVI.* When the whole People of *Iſrael* would have chang'd the form of their State as to its former Government, and would have made *Gideon* their King, he refus'd to comply with them in it, and ſaid, *I will not Rule over you, neither ſhall my Son Rule over you. So averſe was he from any innovation in the Government.* How angry was God with his People, when they were deſirous to Change the Form of their former Government, *and askt a King to Judge them like other Nations.* Neither ſhall we find throughout the whole Sacred Hiſtory, that God was pleas'd with Changing the Government of a State, *Remove not*, ſaid the Lord by the Wiſeman, *the Ancient land Mark, or Boundaries, which thy Fathers have ſet*, and in another place, *keep the Laws of thy Father, and forget not the Commandments of thy Mother.*

Numb. xvi.

All Changes in the Government of a State are dangerous to it.

Prov. xxii. 28.

Shou'd we take a verdict in this matter from the Schools of the Philoſophers, we ſhall find them unanimouſly agreed, that Changes of Government are always Deſtructive to a State. Every change, ſaid *Plato*, in a Common-wealth is dangerous. And that of *Thucydides* is very remakable πάσας μεταβολὰς εἶναι ἀναλοφόρας, and τὸ κακὸν ἐῶ κείμενον ἢ κινητέον *All Changes are Mortal*, and the *Evil or Inconveniency that is ſo ſettled, as to become tolerable, is beſt not to be remov'd. Salluſt* ſaid of all ſuch mutations that they portended Flight, Slaughter and Miſchiefs. It were endleſs to multiply Reaſons and Teſtimonies for confirming this Argument, or refuting *Doleman*'s Propoſition. For as he who regards his health, cannot change his way of Living, without endangering it, ſo there is not leſs danger to a Kingdom, by altering its State or Form of Government. I have already ſhown how hard it is to Aboliſh or unſettle a Government, that is once deeply rooted, and how Cuſtom comes to be another Nature. For if a Diſeaſe of the Body has obtain'd for a long time, and be Habitual, and confirm'd, 'tis better to let it alone, than to attempt its removal by any doubtful or dangerous Cure, after it grows tolerable by Cuſtom, leaſt thereby the Patients Life be Deſtroy'd.

But *Doleman* being deſtitute of reaſons, brings examples for confirming his propoſition, in which he affirms *that the form of the Government did not only at firſt depend on the determination of the People, but that the ſame people may alter it as they pleaſe.* I own, that in *Ariſtotle*'s time, there were Ariſtocracies and Democracies in *Greece.* But from the beginning not only the *Athenians* were govern'd by Kings, but it is certain alſo that the *Myceni*, and all the Nations and Cities of *Greece* were under the very ſame Kingly Government. I ſhew'd from *Iſocrates* that never any thing of conſequence, was perform'd by the *Athenians* after they came to be a Common-wealth; and that they never were without Kings until the whole Poſterity of *Theſeus* and *Mneſtheus* fail'd. Theſe Republicks took place only in a part of *Greece.* But what proportion does *Greece*, even tho' it was taken altogether, bear to the reſt of the World, in which I have already demonſtrated, that Kingdoms always obtain'd by a conſtant order of Succeſſion, without any interruption in the ſeries of their Kings?

All Greece *was at firſt Govern'd by Kings.*

In Panathenaico.

That

That one Example of the *Romans* instructs us how Kingdoms ceas'd to be such. The *Romans* liv'd under Kings for 244 Years. *Tarquinius Superbus*, for the Rape which his Son *Sextus* committed on *Lucretia*, was with all his Posterity Expell'd, and the form of the State alter'd. What if I affirm, what *Livy* Writes, That *Tarquinius* was not their Lawful King, as neither having the consent of the People, nor of the Senate, on whose choice their Kings depended, but that he had made himself a King by Force, and that consequently he was Lawfully Dethron'd. But granting to *Doleman* that to be true, which nevertheless is not true, that *Tarquinius* was a Lawful King, 'tis plain, that there was always a very great difference between Elective Kingdoms (use makes this a Latine word) and Kingdoms which were Hereditary and Patrimonial. For Electors always lessen the Prerogative, that they may make themselves the greater. Was it just to deprive *Tarquinius* of the Kingdom, even for his Son's Crime? So it cannot be inferr'd that what the People did in that matter was Lawfully done, but it only declares the stubborn unrulinesse and violence of that People, who were resolv'd to shake off the Yoke. For *Fact* is one thing, and *Right* is another, our enquiry is only concerning the last; For no Man is able to defend what was done through Anger, Hatred and Covetousnes, the very worst Counsellours in Actions of importance, as if it were Lawfully done. For Anger and Covetousnes wage War for ever with Reason; but of this afterwards.

That which gave occasion to the framing of Republicks.

But my Adversary Illustrates by Examples many changes in States, and yet he has not brought one Instance, which did carry along with it Mischief, and perhaps Ruine to the State. *Naples* felt many changes; but after that it was torn from the Empire, *Robert Guiscard* took it by Force and Arms, it was and is still under an Hereditary Monarchy. The rest of the Cities, who are under a Foreign Power, had their own private Administrations of Government, perhaps also some alterations in it; but such did spring from the diversity of Factions. What different forms obtain'd in *Florence*, *Genua*, and also in *Venice*, but they always took their Rise from the perpetual Butcheries of the Citizens. *Germany* always had Kings as well as *France*. In *Spain* as soon as any Province was forc'd out of the hands of the *Moors*, it continu'd at first under the Name of a County or Earldom, but afterwards, as it grew Richer and more Enlarg'd, it assum'd the Royal Dignity; as all who enjoy an Independent Government aspire to the Title of Kings, as *Philip de Comines* observ'd of *Charles* the last Duke of *Burgundy*. And *England* was under a Monarchy, even when it was a *Roman* Province. Neither did the *Saxon Heptarchy* change the Government of the State, for every one of those Seven Kingdoms was a Monarch, untill at last they came all to be United under one Monarch. It was just so in *Gaul*, for tho' sometimes the Kings by their last Will, or by some Settlement in their Life time, did distribute their Kingdoms among their Children, nevertheless each of them was King in his Dominions. And I have shown before, that there never was any other form of Government among God's People than Monarchy.

Altering the Government of a State, always pernicious, and sometimes fatal to it.

But this cunning Sophister lays this Foundation, *That it depends on the pleasure of every people to chuse that form which they shall like best*, that he may build upon it also this Position *that the people may change that form of Government, when they please*. This Plot he had already hammered out in his mind, and this is the drift of all those incendiaries, and to compass

The main drift of Incendiaries is to coques the People.

compaſs this they leave no ſtone unmov'd, but employ their utmoſt endeavours and contrivances, that they may get all the Enſigns and Rights of Government into the people's hand, that they may make and unmake Kings at their pleaſure, admit or reject the Succeſſion, and confound all things without diſtinction: Finally to jumble together, what is lawful and honeſt with what is unlawful and Villainous, knowing that to be a plauſible kind of Argument, and calculated for catching the unwary. But I pray thee, *Doleman*, tell me, what intereſt or part had the people in the Revolutions that have been in *France*, *Spain*, *Britain*, *Germany* and *Italy*? Were thoſe Revolutions brought about by the Advice and Deliberations of the people, and not rather by the Arms and Power of Kings? Canvaſs them all, and the peoples part in them will be found to be the leaſt. So this firſt Chapter of *Doleman*'s Book is made up of meer lyes. And this *Doleman* or *Parſons*, who makes it his buſineſs to unſettle the preſent State of any Common-wealth, can never be reckon'd a good man by any honeſt diſcerning perſon. That anſwer of *Auguſtus* to ſome of his Friends, who loaded *Cato* with obloquies, becauſe he would not acknowledge *Cæſar*'s *Dictatorſhip*, deſerves to be obſerv'd: *Whoſoever, ſaid he, is againſt the altering the preſent State of a Common-wealth is a good man. Even as it is the part of a good Emperour to govern his Empire by the ſame Laws by which he receiv'd it.* I have been the more full and longer in this Chapter, becauſe my deſign was to lay open the Cloaks and Covers of his fallacies. For from what has been ſaid in this, it will be eaſy to Confute what he brings in the following Chapters of his Book.

Force and not the people brings about Revolutions in States.

CHAP. XVIII.

A Confutation of thoſe Things which are brought by Doleman *concerning Monarchy, and the different Forms and Laws of Common-wealths.*

Doleman *owns Monarchy to be the moſt excellent and perfect form of Government.*

Doleman acknowledges here, *that of all other Forms of Government the Monarchy of a King in it's ſelf, appeareth to be the moſt excellent and perfect*, and runs out wonderfully in the praiſes of it; whether he was truely overcome by truth, or it were becauſe he knew (his conſcience extorting this confeſſion from him) that it was not poſſible to root out of men's minds that high eſteem, which they have for Monarchy I ſhall not determine. But he might have ſav'd himſelf that labour, having no adverſary in that diſpute. Yet he is miſtaken, and impoſes on people when he aſſerts, that it proceeded from the will of the people, and not from the appointment of the Immortal God and of Nature; in this Government ſome ſparklings of the divine Light ſtill ſhine, as I have already obſerv'd, neither ſhall I inſiſt on any farther Refutation. Nay *Doleman* himſelf, even contrary to his own Poſitions, confeſſes, that Magiſtrates and Kings are from God, and to prove it, brings that Text, 1 *Pet.* 11 13. *Submit your ſelf to every ordinance of man for the Lord's ſake, whether it be to the King as Supreme, or unto Governours ſent by him.* But ſtealing on the People unawares by little and little, he adds, *That ſeeing a King is*

a man as others be, and thereby not only subject to errours in Judgment, but also to passionate Affections in his will, for this cause, says he, *the People gave him Laws by which he must Govern, and appointed him Counsellours, that he may not do all things by himself.*

These two things shall be examin'd, for in them *Doleman* shows himself in his true colours. As for his inference from the words, *Ordinance of Man, or humane Creature,* that Monarchy is from the Institution of appointment of every Nation, 'tis a mere jest. For it's the King, and not the Institution of the Kingdom, that is call'd a *humane Creature,* and for the People to prescribe Laws to their King, what else is it, but to give the People power over their King, that if he should but swerve in the least from those Laws which are given him by the People, he may without hurt or danger of the People be rejected by them, and Dethron'd; and this is the design of his whole Dissertation. But who ever Read of Laws given by a People to Kings, or where was it ever written, said, feign'd, or done, that a People impos'd Laws on their own Soveraign Lord and Prince?

If a People impose Laws on their King, they must have power over him.

When the *Conquerour* possest himself of *England,* whether did he give or receive Laws from the *English*? Nay he could by no means either of Force or Artifice be induc'd, to allow of the receiv'd Laws of the Kingdom, but he forcibly put the Laws of the *Normans,* or of *Normandy,* upon them, and which was an additional Indignity, they were given and written in the *Norman* Tongue, and the *English* were oblig'd to plead before the Judicatories in that Language, and all Decrees and Sentences past in the same, and this was observ'd in the days of all his Successors, untill the Reign of *Edward* III. In *Spain* and *France,* 'tis as certain that the power of Kings is almost absolute, as 'tis ridiculous to say that the People prescrib'd Laws to their Kings. And what he cites from *David,* referrs to the Law given by God, and not to any Ordinances of Men. I have already demonstrated that in all the beginnings of Kingdoms, the People had Laws given them by their Kings and Emperours, but never gave Laws to their Kings.

The People always receiv'd their Laws from their Kings, not the Kings from the People.

The same may be said of a King's Councellours, for it's evident that they were always chosen by the Kings themselves, and never impos'd on them by the People. For when the Lord perceiv'd that *Moses* could not bear the burden of all the People without wearing away, he added Seventy Councellours, *to bear the burden of the People with him,* and to ease him of a great part of it; but these were not chosen by the People, but by the King himself. Yea the Lord said to *Moses, Gather to me Seventy Men of the Elders of* Israel, *whom thou* (not the People) *knowest to be Officers of the People, and Elders over them, and bring them with thee to the door of the Tabernacle, and I will take of thy Spirit, and put it upon them, that they may bear the burden of the People with thee, that thou bear it not thy self alone.* See'st thou not, *Doleman,* unless thou art blind, that the Election of Councellours appertains to the King, and not to the People, if they will be wise according to what is Written in the Scriptures of God? So *Moses* chose Seventy Men from among the People of *Israel,* that they might Judge the People. Who will say that the People chose those Men?

A King chuses his Councellours, and not the People.

Numb. xi.

Exod. xviii.

'Tis true that Kings ought to govern according to the Laws, *Take away*, ſaid Solomon, *the wicked or wickedneſs from before the King, and the Throne ſhall be eſtabliſh'd in Righteouſneſs.* And that ſaying of *Theodoſius* is univerſally commended. 'Tis a Sentence worthy of the Majeſty of one who Reigns, 'to profeſs himſelf to be bound by the Laws, ſo much does our Autho-'rity depend on the Authority of the Laws, and it is truly greater than 'the power of commanding to make the chief Authority Subject to the 'Laws, from the Oracle of this preſent Edict, what we allow not to 'be done by our ſelves we notify to others. A Prince then ought to live according to the Laws, if he intends that he and his ſhou'd always poſſeſs the Throne. And yet we deny that Laws can be given the King by the people. For Good Kings that their people might enjoy the benefits of Juſtice, and perhaps to keep their own Poſterity to their duty, have publiſh'd Laws, and yet the power of making Laws belongs only to the King. The like may be ſaid of Councellours. What Prince was ever famous for his actions either in Peace or War, who was able to do every thing in the adminiſtration of the Government by himſelf, and who wou'd govern his Kingdom without requiring the advice of Councellours. If that power, which they call abſolute, was any where to be found, or if any King had it, no doubt but *Ahaſuerus* King of *Perſia*, whoſe word was a Law, had it. Yet this great King when his Queen *Vaſhti* refus'd to obey his commands, ask'd his ſeven Councellours who were Princes, *who knew Law and Judgment, and which ſate firſt in the Kingdom*, for Judgment (for that was the cuſtom of Kings) what he ſhou'd do? How much more is this to be obſerv'd in *Britain*, in which the Monarchy is temper'd with ſomething of Ariſtocracy and Democracy, and where taxes cannot be impos'd without the publick conſent? For he who is involv'd in and burden'd with weighty affairs, when he cannot put them right by himſelf, naturally thinks, that his greateſt help and ſafeguard lies in the Counſels of Wiſemen, and Kings themſelves uſe of their own accord, to call the wiſeſt men to aſſiſt and eaſe themſelves, of a part of the burden. Neither is it leſs the intereſt of Kings than it is of the people (who are often pleas'd when things are in confuſion) to have all rightly order'd by the advice of wiſe men; and men do more freely perform the Kings orders, when their own advice was taken. Therefore it is not true what *Doleman* averrs, that Laws were preſcrib'd to Kings by their people, or Councellours appointed by them, ſeeing it was the Prince himſelf who made the Laws, and choſe his own Councellours.

Prov. xxv.

L. digna vox C. de Legibus.

'Tis neceſſary for Kings to uſe the advice of Councellors.

The next thing in *Doleman* is, If ſays he, the People can preſcribe Laws to their Princes, they can alſo limit and reſtrain them, and as it were with certain Bars to keep them in, leſt they ſhould break out into ſome vaſt great Evil. But here *Doleman* takes that for granted, which is in Controverſy. No man has granted as yet, That the People can preſcribe Laws to their Kings, by which they are to Govern. So far from it, that I have prov'd the contrary to be moſt true, even to a Demonſtration. And ſo his firſt Foundation being ruin'd, the Superſtructure that he has rais'd upon it, muſt neceſſarily fall to the ground. But we ſhall go on to ſee, if it can be made appear, that any ſuch reſtraints and limitations, have been put upon Kings by the People. He ſays that the *Roman* Kings were for the moſt part Strangers who were Choſen, and not of the Royal Blood; That is true, but it was when there were none of the Blood Royal. We do

Doleman *takes the thing that's in controverſy for granted.*

do not read of *Romulus*'s Children, nor of *Numa*'s, nor of *Tullius Hostilius*'s, but it was never read that the Children of their Kings were excluded by the People of *Rome*, from Succeeding their Parents in the Government, or that the Succession in the Kingdom was Limited. When was such a Law made by the People, and by what King? *Ancus Martius* was the neareſt Kinſman to *Tullius Hoſtilius*, being his Nephew by his Siſter. *Servius* was Son in Law to *Tarquin*, and again, *Tarquin* to *Servius*, and alſo the Son of *Tarquinius Priſcus*. So we ſee that ſome regard was had to Blood among thoſe few Kings. But the *Roman* Kingdom did then depend only on Election.

The Ephori *were not appointed by the people, but by their King* Theopompus

He ſays that the *Ephori* among the *Lacedæmonians* were added as a check upon their Kings, by the People, but Lying is cuſtomary to theſe kind of men. For the *Ephori* were firſt inſtituted by King *Theopompus*, that in caſe his Poſterity ſhou'd grow madly Extravagant with too much Liberty, to do any ill thing, they might reſtrain them. When he return'd home his Wife being vex'd at this Deed of his, objected to him that he had left leſs Power to his Children, than he himſelf had receiv'd, I ſhall leave them leſs, ſaid he, but a more laſting Power. For he thought rightly, that that Power which has ſome bounds ſet to it, is more ſafe and durable. And *Theopompus* gain'd ſo much more of the Peoples Affections, as he did more ſtrickly reſtrain the Authority of the Kings. Kings are much in the right, if they ſet bounds to themſelves and their Poſterity, and to think that the more Power they have, the leſs Liberty they ſhou'd take: Yet not ſo as to take the *Ephori* into a Partnerſhip of their Power. For *Theopompus* was wretchedly ill uſed by them and Impriſon'd. *Ariſtotle* approves not of this inſtitution of the *Ephori*, they broke out into ſuch a Licentiouſneſs, that there was a neceſſity at laſt, even to ſet Bounds to themſelves; for they had their Magiſtracy exempted from the Royal Laws, and called it *Ephoria*. As this example of the *Spartans* is not to be imitated, even in *Ariſtotle*'s Judgment, ſo it makes nothing for *Doleman's* purpoſe, for the *Ephori* were not impos'd on the King by the People, but by *Theopompus* himſelf who was King, as has been ſaid.

Doleman's *examples from* Germany, Poland *and* Hungary *are not to the purpoſe.*

The Empire and Kingdoms in *Germany*, *Poland* and *Hungary*, depend upon Election, and we acknowledge that as the Electors can make Emperours and Kings, ſo they may Limit and reſtrain them by Laws. For as they leſſen the rights of Majeſty or the Royal Prerogatives, they raiſe their own Dignity. So what one loſes another gains, and no Innovations are to be made raſhly, in thoſe things which once take place in a Commonwealth. For what does the Emperour ſwear at his Inauguration, but that he ſhall not alter the Laws and Conſtitutions of the Empire, nor bring it from being Elective to be Succeſſory. And yet from *Poland* and *Bohemia*, *Doleman* brings nothing that's inconſiſtent with the Prerogative Royal, but that in thoſe Kingdoms nothing of moment can be done, without the great Councils in them, (which is likewiſe obſerv'd in *Britain*,) and that Children cannot Succeed to their Fathers but by Election, ſeeing theſe Kingdoms are Elective, to uſe that word.

The example from Spain *enquired into.*

As he acknowledges that the Privileges of Kings in *France* and *Spain* are in no wiſe impair'd, ſo he lyes notoriouſly when he ſays, that in *Spain* they do not Succeed by right of Blood, and for this he cites the fourth Council of *Toledo*. But this Impoſtor might have known, that the fourth Council of *Toledo* was held, whilſt the *Gothiſh* Kings who were Choſen only by the Acclamations of the Souldiers, govern'd that Kingdom.

dom. Nay that whole Kingdom was then in a very tottering Condition by reaſon of its novelty, the *Roman Emperours* making it ſhake in every quarter; they being inraged to ſee *Spain* torn from their Empire. Neither was Succeſſion at that time, receiv'd in thoſe Kingdoms which I took notice of already from *Aymonius*; And the *Goths* had a barbarous cuſtom of killing their Kings. So to argue from the manners and cuſtoms of the *Goths*, before the Kingdom and Royal Power was confirm'd among them, is only to deceive People.

King's did ſometimes appoint their Children to be their Succeſſors for farther ſecurity. Majoris Cautionis cauſa.

But nothing can be ſaid that is more Falſe than his Aſſertion, that at this day *the King of* Spain's *Son cannot Succeed, nor be called Prince except he be firſt Sworn by the Nobility and States*, &c. Sometimes Kings and Princes when they became old, us'd to cauſe their Sons to be Crown'd in their own Life-time, as *Hugh Capet* did his Son *Robert*, and many other Kings of *France* did the ſame by their Sons. And *Henry* II. King of *England*, but his Son's ingratitude to his Father after he was made King, hindred the Kings who Succeeded *Henry* from imitating his example; ſo it was not any neceſſity, but further ſecurity, that made Kings in their own Life-time have their Children declared and appointed their Succeſſors, and have an Oath taken accordingly by the Peers and People. Would *Philip's* Children have been Excluded from Succeeding him, unleſs that had been done? My Adverſary is a bad Lawyer, for theſe things which are done to remove all manner of doubts, do no wiſe prejudice the *Jus Commune*, the Common Law of a Kingdom, *Neque enim ſolent quæ abundant vitiare Scripturas* [b]. For ſuch things as confirm and explain do not uſe to ſpoil any writings. Neither are thoſe things which are done upon account of neceſſity, to be drawn to the Conſequence of Law. So *Doleman* is very injurious to *Philip* his great Benefactor, when he aſſerts that his Children's right to the Succeſſion of *Spain*, depends on the pleaſure of the People.

[a] L. quæ dubitationis de regulis juris.

[b] Non ſolent ibidem. L. quod contra. L. quod propter ibid.

The Salick *Law was not from the people.*

'Tis madneſs to affirm that the *Salick Law* was impos'd by the people on the Kings of *France*. For the Kings themſelves, at the very founding of their Kingdoms, preſcribed that Law, (if ever any ſuch Law was made) for that reaſon, eſpecially that the Kingdom might never go to ſtrangers by female Heirs. For we ſee in the Inveſtitures of all the ranks and orders of other people which are inferiour to the Royal dignity, which alſo depend on the Will of thoſe who grant them, that they take the Law of Succeſſion, as it was from the beginning, and they provide whether for heirs Male or heirs in the general. I cannot determine whether that *Salick Law* was real or fictitious, Critic's are not agreed, and it continues an undecided queſtion. But *Doleman* ought to have learn'd not to bring his proofs from doubtful things, and ſuch as are to be reckon'd in Law *pro non Scriptis*, no argument can be drawn from them. But I clean the *Augean Stable*.

Doleman's *diſſimulation.*

This alſo is juſt matter of admiration, that when *Doleman* ſaw clearly, that the Succeſſion of the Kingdom of *France* did without all controverſy belong to the *Infanta Iſabella Eugenia Clara*, as deſcended from the Eldeſt Siſter of the Laſt King of *France*, unleſs the *Salick* Law had hindred it, yet at the ſame time, he is blind as to the Succeſſion of the moſt Serene King of *Scotland* to the Kingdom of *England*, againſt which there is no *Salick* Law; but he often affirms that it's *uncertain, doubtful, ambiguous, and liable to many difficulties*, tho' all this while there is the ſame reaſon for the Succeſſion in both. For he is deſcended of the eldeſt Siſter of

Henry

Henry VIII. or of the eldeſt Aunt of the preſent *Queen*, and there is none nearer in Blood than he is. The ſame anſwer ſerves for the Prince of *Lorrain*. But this hypocrite follows the manners of his Family, and as *Virgil* ſays,

——*Crimine ab uno*——*Diſce omnes.*

In one ſuch Rogue you all their manners ſee.

But his inference, from the different manner of Succeſſion and different Laws in moſt Nations, that therefore the people might preſcribe Laws to their Kings, is ſtark naught, that being the thing that's controverted. For no body doubts, but that different Nations are govern'd by many different Laws. Becauſe Kings when they founded their Kingdoms, uſed to make proviſions for themſelves and their Poſterity, by certain Laws and Clauſes; but they did not receive theſe from their people, but perhaps according to their different tempers and inclinations appointed different Laws, and thoſe which ſeem'd juſt to one, ſeem'd to another to be unjuſt. Nevertheleſs that theſe Laws might be the better obſerv'd by all their People, the Kings uſed to have the people bound both to themſelves and to their Heirs, by an Oath.

Doleman *diſcovers his main deſign, which is to overthrow the Succeſſion.* Doleman p. 30. *and afterwards.*

At laſt my Adverſary that he might have an eaſier way to ſhake the Succeſſion, diſcovers plainly the deſign he had been long a hatching, for he ſays that the people not only gave Laws to their Kings, *but alſo that Lawful Kings who are lawfully put in poſſeſſion of the Crown, and eſtabliſh'd on their Thrones, may be lawfully chaſtis'd and dethron'd by the people, for not obſerving the Laws that they ſwore to at their inaugurations, and that this hath fallen out with great Succeſs, and been approv'd of and proſper'd by God, by the Good and Famous Succeſſors that enſued thereupon*, and who have ſupported the Common-wealth, when it was in danger of ruine. He advances all theſe things chiefly that he may give the people liberty to reject the lawful Succeſſion. For he makes uſe of this hypothetick Syllogiſm, If people can depoſe their lawful Kings who are lawfully poſſeſt of their Kingdoms, they may much more reject the *apparent* Heir, as we call him, or the next Succeſſor; But it's lawful, ſays he, to do the firſt, and therefore 'tis lawful to do the laſt. The reaſon of this inference is clear from the rules of Law, to whom that which is greater is Lawful, that which is leſs ought alſo to be Lawful, and that Right which is without Poſſeſſion is more eaſily ſubverted, than that of which one is already Poſſeſs'd. And he undertakes to prove in his next Chapter, the Lawfulneſs of depriving and putting down Princes. I ſhall examine the form and truth, of this his Hypothetical Syllogiſm by and by, in my Confutation of his following Chapter, to which it properly belongs.

Cui quod plus Licet & minus licere debet.

Doleman *premiſes two things.*

But before he enters upon that difficult Queſtion, he with great Diſſimulation premiſes two things: 1*ſt*. That he is not for unſettling the Rights of a King once ſettled and Eſtabliſh'd, well knowing that if the Title of King *Philip* and other Kings, as he himſelf ſays, from the beginning were weigh'd in juſt Ballances, by the ordinary rule of private Mens Rights, Succeſſions or Tenures, we ſhould find many Knots and Difficuties, which would ſhake their State. The ſecond is his great Averſion to the practice of ſuch as flatter Princes, and who will not allow that

pag. 27.

they are under Laws, but that they may Lawfully do what they pleaſe with reſpect to the Goods and Perſons of their Subjects; as tho' the Common-wealth had been made for them, and not they for the Common-wealth; that they Succeed if they be neareſt of Blood, whatever they be otherwiſe, and all their Commands muſt be receiv'd.

Doleman's *proteſtations conſidered.*

For anſwer to both his Proteſtations, I make this one, That nothing is more Vain or more Fooliſh than this Hypocrite! For who is ſo Blind, as not to perceive his great deſign in both his Books? Which is plainly to overthrow the Right of the Family of *York*, which has Reign'd now 160 years, and that he may ſupplant the Progeny of *Henry* VII. and *Margaret* the Heireſs of the Family of *York*, which has been own'd by the Kingdom now 140 years: And to deſtroy the Rights of Succeſſion, nay and to diſprove the Titles of all the Kings of *England* ſince King *John*, who Reign'd 350 years ago. Why ſo many Genealogies and Branches from the *Conquerour* or from the *Conquerours* Eldeſt Daughter, but that he may Eſtabliſh a Right for this *Infanta* of *Spain*, by overturning the Right of all the other Deſcendants of the Royal Family? Or to what purpoſe does he bring in the Race of *Portugal* and *Caſtile*, if it be not to exclude the Family of *York* and *Henry* VII. So this proteſtation of this moſt Vain and Impudent Hypocrite is of the nature of thoſe Proteſtations which are contrary to Fact, and therefore according to the Judgment of Lawyers, is to be exploded. As for his other Proteſtation, that of *Horace* is moſt true with reſpect to it,

Dum vitant ſtulti vitia in contraria currunt.

When Fools one ill extream would ſhun,
They headlong on the other run.

For whilſt he would appear to ſhun the imputation of Flattery, he falls into a moſt pernicious crime: For which, if he was brought to his Trial, and was ask'd at the Bar what puniſhment he deſerv'd, he might anſwer with *Davus* in *Terence*, *Crucem*, the Gibbet. For through his whole Book he ſeems to ſound the alarm to War, heaps together and, then blows the Coals of Sedition; Scatters them about as much as ever he can to every corner, yet ſtill adding fewel to the flames; Furniſhes Arms to Rebells, whereby to defend and ſecure themſelves; He exaſperates and Arms the Members of the Body politick againſt their own Head, and again the Head againſt its Members; he lays open and ſubjects the whole Kingdom to Seditions, Slaughterings and Devaſtation; that he may perſwade the Ignorant and unskillful Multitude, that it's Lawful for them to impoſe Laws on their King, and make or aboliſh the Rights of the Empire; and becauſe the ſtrength of the Kingdom is in the People, he would have them to be no longer Subject to the Government of any than they pleaſe. Let's now hear his reaſons, by which he endeavours to Eſtabliſh this his *Thraſonical propoſition*, the chiefeſt of which reaſons follows.

CHAP.

CHAP. XIX.

Tho' several Kings had been Chastised by their Commonwealths, and Dethroned for their Misgovernment, and with prosperous Success to the Commonwealth, yet this makes nothing for Doleman's *Proposition.*

Doleman's prosecution remembered.

WE are obliged to look very narrowly into this Chapter of *Doleman*, in which he undertakes to prove two things together. First, *that Common-wealths have Lawfully chastised their Lawful Princes, though never so Lawfully descended, or otherwise Lawfully put in Possession of their Crown, and he engages himself to prove this*, as well by reason, as by examples. His other proposition is, *That this hath fallen out ever, or for the most part to the advantage of the Publick*, and from the Success he infers, *that God approved of and Prospered the same.* But

Doleman's *part* 1. Ch. iii.

Doleman's *principles for deposing Lawful Kings.*

Multa fidem Promissa levant, ubi plenius æquo
Laudat venales qui vult extrudere merces.

The largest promises I'll trust the least,
Men call those goods they first would sell the best.

As for reasons for this Doctrine of his, he brings none, but instead of them he entertains us with one Metaphor, and 'tis this, *As the whole Body*, says he, *is of more Authority than the Head alone, and may cure the Head, if it be out of order, so may the* multitude (to which he always gives the most specious name of *Weal-publick* or *Common-wealth*, and with this fine Veil, covers or hides his own head) *cure or cut off their Heads, lest they infect the rest.* A noble Metaphor indeed, which I thus retort upon himself. For seeing without the Head, the Body is only a dead Carcass, and can do nothing of it self without the Head, which is the seat of all the Animal Senses, therefore, the Body can do nothing against the Head, seeing without the Body it is dead, neither has it Power over any Member, but with the consent of the Head. Who could endure such a Metaphor, that a Body may cut off its own Head, that it may remain a Body? Should a Phrantick or Madman, run his Head furiously against a Rock, would not the ruine of his whole Body follow the destruction of his Head? And I do not see how he can otherwise cut off his own Head: As neither how a Common-wealth, can deprive their King and Sovereign Lord who is its Head of his Crown and Kingdom. The safety of the whole Body Politick or Kingdom, and the tranquillity of the State, depends on the safety of the Prince, who is its Head.

Doleman *always gives the word Weal-publick or Common-wealth to the Mobb.*

His Metaphor of the body's authority over the head consider'd.

But before I examine his examples, two Rules shall be premis'd, one is, that we are not to think, that what we read of as once done, has therefore been Lawfully done. For examples are for the most part, of such things as ought not to be Imitated, and they show us, what has been done, not what may Lawfully be done. And our Laws will have things to be judged of by Laws, and not by examples [a]. No sentence is to be given from singular Facts, or from such things as seldom happen, untill they

Two Rules.
1. Doleman's *Examples are generally such as ought not to be imitated.*

[a] L. nemo de sententiis & interlocutoriis omnium Judicum.

they be throughly examin'd, according to the word of God, or Equity. Neither are any Examples to be admitted, but ſuch as are far above all Cenſure or Exception, and propos'd for our Imitation. Therefore the Lawyers define Law, to be the Rule of ſuch things, as often occurr, and not of what ſeldom happens, as *Theophraſtus* ſaid [b], and the Lawyers paſs over what has fallen out once or twice, and ſuch things as ſeldom happen, are not raſhly to be reckon'd among things to be done. Care muſt always be taken, that the Examples be not ſuch as Swerve from the general Rule, otherwiſe it is moſt abſurd to conclude, from one or two examples of things impiouſly done, a right to do ſuch things; and to inferr from ſingular facts an univerſal right as this Crafty deceiver endeavours to do. *Childrick* was depriv'd of his Kingdom by the Popes Authority, and *Pepin* made King of *France*, is it therefore Lawful for the Popes to Dethrone the Kings of *France*, and to appoint new ones in their place? And ſhall there be no Kings of *France*, but ſuch as take their Crown by the Popes Authority? No Crime is ſo Horrid of which an Example is not to be found, even in Sacred Hiſtory; and the Examples of Virtue are alſo fewer than thoſe of Vice; becauſe of the deprav'd opinions of Men; and the wicked have been ſtill moſt Numerous. But would it not be a wretched inference, if any man ſhould conclude, that ſuch Examples ought to be Imitated, and that the Examples of Virtue, as being fewer, are to be neglected. Nevertheleſs my Adverſary makes the ſame Inference by way of Induction, to wit, becauſe the *Romans*, the *Grecians*, the *Spaniards*, the *French* and the *Engliſh* did ſo and ſo, by their Kings, therefore, all Nations may Lawfully do what theſe did.

[b] L. 3. & 4. cum ſequent. de legibus.

The ſecond rule, the Inference from ſucceſs to the equity of the fact is naught.

The reveal'd will of God and the light of reaſon are the rule of Juſtice.

The Second Rule ſhall be this, we ought not to judge of the Juſtice of a cauſe, by the Succeſs of it; leſt what has been done Succeſsfully ſhou'd be ſaid to have been done piouſly and juſtly. 'Tis the height of injuſtice to weigh actions, and what is Lawful, or Unlawful, by the ſmiles of Fortune, and not by the will of God, the light of reaſon, and the deſign of the undertaker. What elſe is Fortune if we conſider men, but chance, and what can be more abſurd than to argue from chance. Lawyers diſtinguiſh mens actions by their will, or at leaſt by the ends which they propoſe [a]. But with reſpect to God Almighty, it is a very inſufficient argument which my Adverſary draws from *God's ſeeming to bleſs ſuch deeds*. God's judgments are ſecret and unſearchable, and it is he only who brings Good out of Evil, Light out of Darkneſs; and alſo gets glory to himſelf from the worſt deed's of the wicked. As from *Lot's* inceſt he rais'd up two moſt Powerful Nations, the *Ammonites* and *Moabites*. But *Doleman* being Judge and by his way of reaſoning, *Lot* did rightly, ſeeing the Succeſs was not leſs, and laſted much longer, than the Succeſs of the *Romans*, while their affairs were adminiſtred under Democratical Government. So when *Uriah* was ſlain, *Solomon* who was a Type of *Chriſt*, was born of her who had been Wife to *Uriah*, muſt Husbands than be killed that we may enjoy their Wives? *Jehu*, who was Captain of the hoſt of *Iſrael*, killed his Maſter *Joram*, and Seventy Sons of *Achab*; as he did *Ahaziah* alſo, and his two and forty Brothers. Shall we therefore affirm it to be lawful, for Generals of Armies, to conſpire againſt the life of their Soveraign, and to kill him and all his Family? And yet *Jehu* had great Succeſs in what he did, and an expreſs bleſſing from God, for he was moſt famous and proſperous in his own Reign, and for that very deed, God continued

[a] L. qui injuriæ F. de furto.

The moſt wicked deeds have ſometimes been ſucceſsful.

2 King. ix. x.

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the Kingdom to his Family for four Generations. 'Tis against the receiv'd opinion of all Wise and Learned, men to reason from Success among men to the Justice of the cause. *Ovid* made a better Judgment in this Case, when he said,

——*Careat Successibus opto,*
Quisquis ab eventu facta notanda putat.

Never may Providence his actions bless
Who Censures actions only by Success.

When *Claudius Nero*, in the Second *Punick* War, had withdrawn secretly from his Camp, that he might assist his Collegue *Livius Salinator*, who was to engage *Asdrubal* in fight, and had acquainted the *Senate* with the resolution he had taken; The *Senate* as *Livius* tells us, durst neither approve nor condemn what the Consul had done. 'Twas plain, saith the same historian, that they were to make their estimate by the Success, (which is most unjust.) And *Cæsar* said, that the Immortal Gods used to give ill men sometimes prosperous Success and a longer impunity, that they might be more grievously afflicted at last with the change of their Fortune, and their crimes be punish'd in proportion to their demerits. Therefore Success is no argument to prove that a thing is justly done, even as many things which have been excellently well instituted and ordain'd, have not been attended with such prosperous Successes as they deserv'd, and such things as seem'd well and wisely design'd for our Safety become sometimes hurtful.

Liv. lib. 28.

Commentar. Cæsar. lib. 1.

The *Switzers* were Successful in destroying all their Nobility at *Sempach*, is it therefore lawful for all people to kill and root out the Nobility? The *Conquerour*, tho' he own'd himself to be a Bastard, and had no Right; yet he invaded and possess'd himself of *England* very Successfully, is it therefore lawful for every man, who has arm'd force, to invade another mans Right? The *Turks* have taken great Kingdoms and Countries from the Christians, will their great and wonderful Successes justify their Religion or their Cause? *Henry* VIII. caus'd the body of *Thomas Becket* Arch-Bishop of *Canterbury*, when it was reduced to ashes, to be thrown into the River, and destroy'd all the Monasteries of *England* effectually, will Mr. *Doleman* therefore allow that *Henry* was in the Right in those things, which he did Successfully? Certainly many things, which have been wholsomely instituted, have not been Successful; and Fortune has oft times smiled upon very impious facts. But all these events depend on the secret Will of God, who directs us to measure what is Just and Right, not by the event or Success, but by the rule of his own word. Yet it may so happen that he who Succeeds into another man's place, may become wise from the example of his predecessor, and be more circumspect in his Government. We read in History that a good Prince has Succeeded to a bad one: Not that it was Lawful to renounce the former, or that it was owing to the Election of the people, as *Doleman* falsely reckons; but because they who did Succeed having an abhorrence of their predecessors, fatal end either would not, or were asham'd to imitate his actions; Or, what is more true, the Compassion of the ever Blessed God shows it self in these things, that people be not oppress'd with a longer Tyranny than they are able to bear. I shall now examine *Doleman*'s examples.

Fortunate success has often attended impious deeds.

The example of Saul *conſidered.*

Doleman brings two examples from the Holy Scriptures, "*the deprivation and putting to death of two wicked Kings of* Judah, *named* Saul *and* Amon, *(tho both of them were lawfully placed in that dignity) and the bringing in of* David *and* Joſias *in their Rooms* &c. But as to *Saul* he was not depriv'd by the people, nor by any publick Counſel or deed of theirs, but by God, who had choſen *David* in his place, while the people knew nothing of it. For all the people did adhere to *Saul* as long as he liv'd, and after his Death, to his Son *Iſhboſheth* for the ſpace of ſeven years. And *Saul* had the Kingdom only upon condition of his obedience to the Divine Laws and Commandments, and ſeeing he did not perform the condition on which he held his Kingdom, 'tis no wonder that God rejected him from being King. But theſe things appertain to God's extraordinary calling and rejection, and not to the inſtitution or revocation of any Common-wealth. For nothing was done in that matter by the peoples choice, or by any publick deliberation or conſultation of theirs, which *Doleman* undertook to prove, his aſſertion being this, That the people may deprive and depoſe their Kings. Yea *David* himſelf whoſe vertues I own can never be too much prais'd, ſays, that *God who was his Strength, Fortreſs and Deliverer ſubdued his people under him* Pſal. 144. Therefore *David* bears witneſs, that the King was Superior to the people, and not the people to the King, and that by the appointment and bleſſing of God. We read indeed that *Amon* and alſo *Joram* were killed by ſome of their Subjects, who conſpired againſt them, but theſe murderers ſuffered the juſt puniſhment of their crime, but I do not read that either one or t'other of them were ever dethron'd or declared unworthy of their Dignity and Crown, by any publick Sentence of the people. 'Tis true that an excellent Prince Succeed *Amon*, but that was becauſe the people ſomeway deſerv'd ſuch a bleſſing, but he aſcended the Throne by a Rightful Succeſſion. And becauſe God was pleas'd to eaſe the people of their oppreſſions, and to deliver them from Tyranny, therefore *Doleman* inferrs falſely, that for juſt cauſes *Amon* was rejected by the people, and gives for the cauſe of his rejection, that which was not the cauſe of it, and maliciouſly attributes that to the people, which is only to be attributed to God. For they who kill'd *Amon* were all put to death, ſo the murder of *Amon* was the wicked deed of ſome Parricides and not the peoples, as *Doleman* would have it, who upon all occaſions villainouſly aſcribes to the innocent thoſe deeds which were perpetrated only by Murderers and Traitors. This is a taſte of his Learning and Candor. Now ſhou'd we bring *David* back to be tried before the Tribunal where *Doleman* Seats himſelf as Judge to give account of his Actions, his Sentence muſt be this, That the people ſinned grievouſly who did not dethrone *David*, who was found guilty of the baſeſt Adultery, Murder and Hypocriſy, Gods own Prophet and himſelf being Judges. But this is but a light matter compar'd with thoſe things which *Doleman*, undertakes to perform.

David *ſays that the people were ſubject to the King, and not the King to the people.*

The Murderers of Amon *were put to death.*

Doleman *loads the people, with all the barbarous murders committed by rebellious paricides.*

The Inſtance of Joſiah.

As for *Joſiah* the Lord foretold by his Prophet *Ahijah* what ſort of man he ſhould be. So theſe examples are ἀδὲν πρὸς ἔπος, as they ſay, nothing at all to the purpoſe. Seeing the whole people, or to uſe *Doleman*'s word the *Common-wealth*, could not appropiate to themſelves any part or ſhare either in the murder of the Father, or ſetting his Son on the Throne by their ſuffrages.

I would not affirm for a truth that *Romulus* was torn in pieces by the Senate, seeing *Livy*, *Dionysius* and *Plutarch* say, that there was only a surmise or very obscure report of it, and that the manner of his death was believ'd by the *Romans* to be very different from that. And tho' I shou'd allow that surmise (tho' nothing can be more absurd) to be true, yet it makes nothing for *Doleman*. For it was not the Commonwealth but only the Senate that murder'd him, and they durst never own that Deed for fear of the people, to whom *Romulus* was most dear. Neither can he prove that any thing was done by any publick Advice or determination of the People, which he was most concern'd to do; for otherwise it will necessarily follow, that he was only killed in a tumult, or by some sedition; The Authors of which deeds are still condemn'd even in the most wretched Republicks, and such things never fall out but by the fury of some mad people, or the raging mad Mobb. *Romulus* was most famous for the great things he did; he founded the City of *Rome* it self, begirt it with Walls, establish'd it with Laws, so that he became a terror by his new City to all his Neighbours. For the affairs of *Rome* never had such prosperous Success, as in his life time, when from such small beginnings *Romulus* made himself so considerable, that he could lead forth an army consisting of Forty Six Thousand Foot and a Thousand Horse with himself to the War[a]. I never read that ever he did any thing for which he deserv'd to be killed by his own People, neither was he ever rejected, *or chastis'd by the Commonwealth*. Nay if we consider his worthy deeds rightly, who from a piece of bare ground rais'd up a rich and populous City, instructed the Citizens with warlike arts and prowess, brought forth a most powerful Army to the Field, we may Justly reckon him among the most famous and celebrated Heroes among men, and preferr him to three hundred *Numa*'s. All his sacred Rites and Laws had been to no purpose, had not *Romulus* founded and left such and so great a City. Let men ponder in their own minds how great a matter it is, to have erected such a Kingdom from the very Foundation, and I shall never think him a good man who reckons *Romulus* among ill and wicked Princes, or thinks that he was destroy'd by the Judgment of the *Commonwealth*.

of Romulus.

Romulus's *Character and Actions.*

[a] Dionysius Halicarnass. Lib. 2.

He is preferable to Numa.

As for *Tarquin*, we know well enough what he did, and that he was expell'd by the Fury of an Enraged Multitude, but we deny what *Doleman* affirms, that he was at first despoil'd of the Kingdom, by the publick Judgment and Authority of the Senate. Expell'd he was, and Rob'd of his Goods, before they came to a resolution for expulsing their Kings for ever; Neither was it for any Rape committed by him, but only for that of which his Son *Sextus* only was guilty. But *Livy* does not think that he was King, or that he had any right to the Kingdom, but what force gave him; seeing he got not the Kingdom either by the Peoples appointment, or by the Authority of the Fathers. So nothing can be drawn from this Example as the Lawyers speak, *ad consequentiam Legitimi Regis*, that can affect a Lawful King.

of Tarquin.

I deny also that the prosperous Success, which *Doleman* boasts so much of, ensued upon *Tarquin*'s being expell'd. For as that Change of the Common-wealth was introduced by the fury of an enraged people, which like an impetuous torrent bore down all before them, so it was also the cause of many Calamities. The two Consuls who had been Authors of that Sedition, did not escape punishment, one of them being banish'd soon

What evils the changing the form of the Government of Rome *brought upon the Romans.*

ſoon after, the other after he had barbarouſly murder'd his own Children, was himſelf kill'd before that year was at an end, the City beſieg'd and almoſt deſtroyed by Famine. 'Twas forc'd to take ſuch terms from *Porſenna*, having firſt given him hoſtages, as he was pleas'd to give them: After it attain'd it's freedom it was miſerably toſs'd and diſquieted within it ſelf with Seditions, Tribunitian Declamations, and the Citizens being ignominiouſly routed at *Allia*, the City was burnt, and the *Romans* forc'd to redeem themſelves with Gold; all theſe miſchiefs befell them within the ſpace of leſs than a hundred and twenty years. Whereas they had lived moſt happily under Kings two hundred and forty four years, and were fear'd by all their Neighbours. How many Seditions of the moſt furious *Tribunes* does *Livy* give account of; what Butcheries were committed in the City, *in Campo Martio*, in the Senate, nay in the very Temples of their Gods? So that good men were either forc'd to leave their Country, or to live miſerably in it. Nay we ſhall find that it never continued in the ſame poſture twenty or thirty years together, ſometimes they were much taken with the Government of *Conſuls*, ſometimes with the *Tribuni Militum*, after that with the *Decemviri*, then with the *Dictators*, and laſtly with the *Tribunes* of the people, who were a moſt Seditious kind of men, and born for miſchief to the Commonwealth. What ſhall I ſay of the Wars with *Carthage?* The irruption of the *Cimbrians*, the Social War, and finally their Civil Wars? Of all which the people of *Rome* became ſo wearied, and alſo of their Liberty which flow'd from the expulſion of *Tarquin*, that they all thought it their beſt Courſe to return to their ancient Monarchy, and agreed to have *Auguſtus Cæſar* for their Emperour. But why does not the Hypocrite here unmask himſelf, and at laſt bring forth, what he had already been in labour with in his mind? Seeing he praiſes the *Romans* for renouncing and ſhaking off their King, ſeiſing his Eſtate and Goods, and introducing Popular Government and Tribunitian extravagancies, 'tis therefore lawful for any people, if they will merit *Doleman*'s panegyrick, to write after that Copy, dethrone their Kings, give their goods for a ſpoil to the people, Inſtitute and inflame *Tribunes* of the people and Tribunitian madneſs. For to what end does he bring ſuch examples, unleſs he intends that we ſhould imitate them in our practice, and that we alſo ſhou'd conform our ſelves in this age, to what things they did proſperouſly, and had, as he ſays, the bleſſing of God upon it. Otherwiſe I can force from him, his argument that he brings from *Tarquin*'s caſe, for *Tarquin* was not King, nor lawfully called to be King, which *Doleman* undertook chiefly to prove in this diſpute, namely that a Lawful King may be dethron'd and expell'd, nay put to death: But he was only a Tyrant, that invaded the Kingdom by force. For *Livy* ſays, that he had no Right to the Kingdom, beſides force, *ut qui neque Populi Juſſu neque Authoribus patribus regnaret.* And therefore ſeeing he was not a Lawful King, nor Lawfully inveſted in the Kingdom, he might Lawfully be pull'd down from the Throne. So *Doleman* has not attain'd what he aim'd at, by this example.

Tarquin was not lawful King of the Romans.

* *The example of* Julius Cæſar's *being kill'd.*

He ſays *that* Julius Cæſar *who had broken all the Laws of God and Man was kill'd by the Common-wealth*, whereas no man in his right wits will affirm, but that he was murder'd by a few Conſpirators againſt the peoples Will. 'Tis true, he was kill'd in the Senate houſe, but not by the Authority of the Senate; Neither was *Octavius Auguſtus preferred in his*

his Room at that time, either by the Senate, or by the people; but they who kill'd *Cæsar* restor'd Democracy and the ancient Liberty, which *Cæsar* had chang'd into Monarchy. How many dreadful miseries follow'd his Death? The Slaughter of both the Consuls, *Hirtius* and *Pansa*, in the Battel at *Mutina*, the arms of the *Romans* were turn'd against themselves to their own destruction, then the *Triumvirate* of *Antonius*, *Lepidus* and *Octavius*, the proscribing of almost all good men, the fatal Battel at *Philippi*, where *Brutus* and *Cassius* being kill'd, the very name of *Romans* was almost blotted out by their own hands, soon after that the Famine in the and over all *Italy*, and the *Triumvirate* of *Antonius*, *Octavius* and *Sextus Pompeius*, the fight at *Actium*; Finally the Common-wealth was so distress'd and torn in pieces, and so tired with it's Liberty and Democracy, that all consented to have a Monarchy, which all the people formerly had in great abhorrence, and chose to rest there only, as in a safe and fortified harbour against all Storms, Seditions and Tumults of the people. These were the fruits of *Democratical Government*, these were *the prosperous Successes* after the killing of *Cæsar*? There was not one concern'd in his murder, who within the Space of ten years was not killed himself. The Tumults which arose upon the first report of his Death, the publick Lamentations at his Funeral, the strict and most severe enquiry that was made by the people, after the Authors of so great a Crime, show the *Roman* peoples abhorrence of his murder. But we may bear with what *Doleman* says of *Cæsar* the *Dictator*, seeing he reckons *Romulus* among the wicked Kings, and makes him guilty of Tyranny and misgoverning his Commonwealth. Nevertheless his assertion, that upon *Julius Cæsar*'s Death *Octavius was preferred by the People in his room*, is false.

The ruine and destruction of men, which ensued the Murder of Cæsar.

That *Nero*; was thrust from the Empire and condemn'd by the Senate is some way true, but it was after he for his horrid Crimes and monstrous Abominations came to be the detestation of God and Men. *Galba* assum'd to himself the purple while he was in *Spain*, and was saluted Emperour by the Acclamations of his Souldiers only, without the consent of the Senate, when he arriv'd in *Italy* with the Army, and all men forsook *Nero*. The trembling Senate had regard to the Victor, and that they might seem to concurr with him, they confirm'd to him the Title of Emperour, when they were not able to withstand his power and decreed *Nero* to be punish'd *more Majorum*. Will any man say, that *Galba* was made Emperour by the publick advice and consent of the People? Neither was that Sentence past against *Nero*, until the affairs of the Empire were embroil'd, and *Galba* had invaded the Government. But what was *the Prosperous Success*? Did not most Cruel and Bloody Civil Wars follow, the Slaughtering of three Emperours Succeeding one another, besides *Vespasian*'s coming into *Italy*, in all that time there was nothing, but Butcheries of men, Spoiling and Ransacking of Towns and Provinces, and all kinds of Wickedness, and Desolation spread it self through all the *Roman* Empire, in less than two years time. Let *Doleman* keep *such Prosperous Success and Blessings of God* to himself and to those of his Gang.

of Nero.

He says, that *Domitian also was kill'd by the Senate's procurement*, notwithstanding they were not conscious to his death. For *Domitian* was murder'd by a few Conspirators. But *the Senate*, says he, *did presently approve of the same*. That's true, many are glad when a Tyrant is ta-

of Domitian.

ken out of the way, who are loath to lend their hand or aſſiſtance to do it. But, *Doleman*, you ought to have prov'd that he was kill'd by the publick Counſel and Determination of the Commonwealth, which could not have been without a preceeding ſentence and deliberation of the Eſtates in it, and thou acteſt knaviſhly, when thou draweſt whatever was done from another cauſe, as if it had been done on purpoſe to favour thy deſign. For if thou ſay'ſt that the Senate were Authors of that deed, *becauſe the Senate after his death diſanull'd all his acts, and approv'd of his being kill'd*, thou may'ſt as well inferr that we were Authors of his death. For all good men at this day condemn the *barbarous acts* of *Domitian*. But what proportion did the Senate bear to the People, neither did the People always approve of what was done by the Senate? I ſee no reaſon for his aſſertion, That *Domitian* was condemn'd and put to death by the publick Counſel of the People, but that I know, when he had not a better example, he brought ſuch a one as this rather than none.

He purpoſely paſſes by *Veſpaſian*, who was ſucceeded by his excellent Son. He is miſtaken as to *Trajan*, *Adrian* and *Nerva*, and the *Antonius*'s, *Pius* and *Philoſophus*. For their Adopted Sons ſucceeded them, who were good men, untill *Commodus* came to be Emperour.

Heliogabalus. 'Tis certain that *Heliogabalus* ſucceeded not by right of Blood, but by Acclamations of the Souldiers, and that he was not put to death *at the requeſt and common deſire both of the People and Senate*, but that he was kill'd by the violence of the raging multitude. Neither is it true that he was *Caracalla*'s Son, but only reputed to be ſo, he was born of a *Syrian* or *Phœnician* Mother, and ſo was unworthy to ſucceed in the *Roman* Empire, being a *Syrian*. But what did not military Licentiouſneſs effect? Our Author is likewiſe out when he ſays that *Maxentius* was Son of the Emperour *Maximianus*, neither did the *Roman* Empire there go by Succeſſion, but by the Choice of the Souldiers: So as there was not any certain ſettled order of the Commonwealth, all the time that was before *Conſtantine*, but only what the Commanders of their Armies had a mind to.

✶ Maxentius *was not Son of* Maximianus.

✶ *The Emperours were choſen by the Armies, and not by the People. They were generally guilty of the murder of their Predeceſſor.*

Nothing was done by the People, or any publick Counſel of the People, either as to the Election or Rejection of the *Cæſars*. Neither was the Empire Hereditary in thoſe days; but he who had the greateſt Intereſt with the Souldiers in their affection, or by his donatives and riches, was ſaluted Emperour. And ſo the worſt kind of men were choſen Emperours by the flagitious mercenary Souldiers, that they might afterwards be deſtroy'd. He who ſucceeded was always Author or Abettor of the murder of his Predeceſſor; this was the method for a long time. Such miſchievous practices obtain'd in the Eaſtern Empire, untill *Conſtantinople* was taken by the *Turk*. Yea the Weſtern Empire it ſelf was not much leſs unhappily adminiſtred. For while they conteſted about their Elections, the *Pope* of *Rome* fail'd not to blow the coals of Sedition; thence ſprung innumerable ſlaughters of People, ſo that they ſcarcely ever had any intermiſſion from Civil Wars; untill at laſt the Empire came to reſt in the *Auſtrian* Family for Eleven Succeſſions. I cannot paſs over what *Doleman* ſays of the Empreſs *Irene*, upon whoſe deprivation he affirms, that *Charles* the Great was choſen Emperour. For it's certain that after his Election *Irene* Govern'd the Eaſtern Empire, and the Election of *Charles* did in no wiſe prejudice her, nor take any part of her Em-

Doleman *is miſtaken in what he ſays of the depoſition of the Empreſs* Irene.

Empire from her, notwithstanding that she had acquired it by very wicked means, that is to say, by putting out the Eyes of her Son *Constantine* the Sixth, and Dethroning him. And yet this Impostor praises *Irene* as a most prudent Princess.

He pass'd next to *France*, where he tells us *that two Evil Princes were Judicially Chastis'd and Depos'd*, to wit *Childerick* and *Charles* the *Simple*. As to *Childerick* it cannot be deny'd that he was Depos'd, but that it was Lawfully done, so as to be drawn into an example, we plainly deny. For what was done against that King, was contrary to Gods Law, which commands us to *Honour the King*, contrary to the Law of Nature, the Law of Nations, and all humane Laws. And the Judgments of God, were clearly seen upon *Pepin*, and his Off-spring: For his Posterity lost that Kingdom which he by perfidious Treachery and Tyranny had acquired, and which they after *Charles* the great's time held with much ado; And that in a short time (for the Series or Line of *Pepin*, reign'd only near two hundred and forty four years) and they lost it by the very same arts, by which *Pepin* got it. For that power which is purchas'd by Crimes is seldom durable. From that time the Family of *Capet* held the Kingdom of *France* by a constant Succession without any interruption in his race, and holds it at this day.

of Childerick *and* Charles *the* Simple.

Here *Doleman* performs more than he promis'd: For he undertook only to prove *That wicked Princes may be depos'd for their Crimes and Misgovernment of the Commonwealth*: here he brings one that was dethron'd, tho' he was not guilty of any crime. For what crime could *Childerick* be condemn'd for? Was any objected to him? None indeed, but that he was simple and unprofitable to the Kingdom, as not being famous for his exploits in War, nor for his government in times of Peace. Whether this be a just cause for renouncing and deposing a King, let every man judge with himself, and if we believe that it was Lawfully done, the example may reach very far. For if a good King, who was not conscious to himself of any crime, who had wrong'd no man; and was kept close at home by *Pepin*, and not suffer'd to be present at the publick Counsels, nor to medle in business, may be Lawfully and Justly rejected; what King is sure of his Kingdom? Who is master of his own? Anciently the Kings of *France*, that their people might reverence them the more, did seldom appear in publick; the *Persians* and *Assyrians* had the same custom. And perhaps the Kings of *Spain* may come to do so, seeing they themselves do little or no business, but administer all things by their Legates or Viceroy's. Yet Kings may be admonish'd by *Childerick*'s example not to indulge themselves in idleness and unmanly sluggishness; nor to suffer all their affairs to be manag'd by others. For they who consume themselves in unprofitable idleness, must be in a declining Condition, and by *Doleman's* reasonings may be put from the Throne.

Some of Doleman's *examples if they inferr any thing, 'tis that a King may be depos'd tho' he be innocent and not guilty of any crime.*

Kings admonish'd by Childerick's *example to mind their own affairs.*

His other example is really false, for who was forc'd to renounce the Kingdom before *Hugh Capet* got possession of it? *Charles* of *Lorrain* was never set upon the Throne, and consequently cannot be said to have been depos'd. *Lewis* the *Ultramarine*, his Son *Lotharius*, and his Grandson *Lewis* surnam'd the *Lazy*, were not despoil'd of the Kingdom, in their Life-time, but ended their Reigns and their Life at the same time. Had *Doleman* deferr'd this example to his sixth Chapter, where he treats of rejecting the Succession in Kingdoms, perhaps he had done better; for none of those I have nam'd were constrain'd to resign the Kingdom.

Charles *of* Lorrain *was not depos'd. Nor* Lewis Ultramarine, Lotharius *or* Lewis *the* Lazy.

But

But we ſhall be fuller afterwards upon the cutting off the Line of *Charles* the great, and of *Hugh Capet*, when I come to anſwer his examples for rejecting the Succeſſion.

Lewis Carloman *and* Charles *the* Fat *not Kings but only tutors to* Charles *the* Simple.

What he feigns out of his own brain concerning *Lewis* and *Carloman* who were Baſtards of *Lewis* the *Stammerer*, and of *Charles Le groſs* is, not true. Theſe were tutors of *Charles* the *ſimple* and crown'd as ſuch, under that deſignation, but were never declar'd Kings in their own right, tho' they are reckon'd among the Kings of *France* by ſome blundering ignorants in the affairs of *France*. But *Charles* the *fat*, was depos'd becauſe he gave *Neuſtria* to the *Normans*, and was forc'd to lay down his guardianſhip. For neither he, nor *Lewis*, nor *Carloman*, who were in that poſt before him, were Kings but only tutors to *Charles* the *ſimple*, and were Crown'd by the name of Tutors, and gave an Oath to the People to be faithful in the adminiſtration of their *guardianſhip*, as *Joannes Serreſius*, who was exquiſitely well Skill'd in the Hiſtory of *France*, tells us. And I ſhall ſhow by and by, that at that time ſuch *Regents* were made uſe of, as well in *Spain*, *England* and *Scotland*, as in *France*. So that he has in the firſt example, with regard to *Fact*, more than he deſir'd: When *Doleman* inferrs that King *Childerick* without any crime, for the integrity and ſimplicity of his life, might be depos'd. But *Pepin* could never purchaſe any Right to himſelf by that moſt wicked deed of his, tho' ſometimes God brings Good out of Evil. Thus much of the Kings of *France*.

Inventory of the Hiſtory of France.

The Examples from Spain.

Doleman is guilty of the utmoſt diſingenuity and falſhood in his examples from the Hiſtories of *Spain*. For the Kingdom of the *Goths* in *Spain* was not hereditary before the killing of King *Roderick*, neither did it always deſcend to the next in Blood, unleſs he alſo excelled all others in the Army by his Worth and Merit. And *Rodericus Toletanus*, a. *Rodericus Sancius* b, and *Alphonſus a Cartagena*, ſay that *Siſenandus* did through Tyranny poſſeſs himſelf of the Kingdom, having driven out his eldeſt Brother *Cintilla*, and not by any publick Counſel, but by arm'd force. But *Vaſæus*, *Lucas Tudenſis* and *Michael Ritius* affirm that *Siſenand* was his Son, and that nothing was done in the *Counſel* of *Toledo* with reſpect to *Cintilla*, but only to *Swintilamen*, and that he was depriv'd of the Kingdom. *Franciſcus Tarapha* ſays that *Siſenandus* Reign'd four years as the firſt born after the death of his Eldeſt Brother *Cintilla*, from the ſame *Michael Ritius*; and that his Second Brother *Cintilla* Succeeded him. So I ſee not what can be made of this perplex'd Hiſtory. For 'tis certain from Hiſtory, that at that time, there was no certain Form of Government among the *Goths* in *Spain*. And I obſerv'd already from *Aymonius* that it came to be a cuſtom among the *Goths*, to kill their Kings, that others who were more belov'd by the Souldiers, might be put in their place. What he ſays of *Alphonſus* X. Is all idle chatt, or the Hiſtory of *Spain* at that time is not to be depended on, neither are the Hiſtorians agreed among themſelves, as *Mariana* himſelf often complains of the careleſſneſs of the *Spaniſh* writers, and of the uncertain belief or doubtfulneſs of the Hiſtory that concerns thoſe times. No Hiſtorian affirms that he was dethron'd by *the publick Counſel*, or *by a publick Act of the Parliament*. There are Hiſtorians who write, that when this *Alphonſus* X. (not XI. as this blundering *Doleman* calls him) was elected Emperour of *Germany*, and made haſt to take the Imperial Crown that was offer'd to him, as being more honourable than his own,

Example of Siſenand *King of the* Goths.

a Cap. 19. lib. 2. de rebus Hiſpan.

b Cap. 27. lib. Hiſtor. Hiſpan.

The Example of Alphonſus X.

he

he reſign'd the Kingdom to his Son *Sancius*, and returning ſome years after to the Kingdom, which he had quitted before, he was not receiv'd [c]. *Alphonſus a Cartagena* ſays, that after he had endur'd many and grievous troubles which his Brother *Philip* and his Son *Sancius* had brought upon him, he retir'd to *Sevil*, and there dy'd a natural death. *Rodericus Sancius* reports the ſame thing, neither does *Mariana*, who laſt of them all wrote the Hiſtory of *Spain*, take any notice of his being Dethron'd, but he is expreſs as to *Alphonſus*'s return from *Germany* [a], and his receiving his Kingdom, and that *Sancius*, tho' he commanded the Army, yet never aſſum'd the Title of King, whilſt his Father liv'd. Let *Doleman* conſider whether theſe authorities are not ſufficient to weigh down his obſcure *Garibay* (whom I never Read) eſpecially when *Mariana* his fellow *Jeſuite's* Authority is added to them. Neither was *Alphonſus* depos'd while he liv'd, tho' *Sancius* having the command of the Army, Uſurp'd the Adminiſtration of the Government. Doubtleſs *Alphonſus* incurr'd greatly the Peoples diſpleaſure, having twice alter'd the form and value of the Money, tho' he did it only under pretext of the holy War. Neither does any thing incenſe people more, or is attended with more evils than changing their Coin. But beſides he was ſtain'd with very great Vices, ſuch as contumelies againſt God, Pride and Fierceneſs. The People were provok'd to the greateſt degree upon the account of his Vices, and chiefly for his Blaſphemies againſt God, when he ſaid, *That if God had advis'd with him in the Creation, he could have given him good Counſel.* So that they would have deſir'd any body rather than him, for their King. And they follow'd *Sancius*, who being a crafty and deceitful Man, tho' he did not take upon him the Title of King, yet us'd all his endeavours to draw the People to his Intereſt, partly by force, and partly by donatives, that after his Father's death he might be preferr'd to the Children of his eldeſt Brother. *Doleman* commends this very *Sancius* as a notable Man, and that his Reign *turn'd to the great advantage of the Community.* Do you truly, *Doleman*, reckon him a good Man, who as you ſay, depos'd his Father, and purchas'd his Father's Curſe at his death? Does not the authority of the Divine Law weigh any thing with you, which commands us *to honour our Father and our Mother*? But tho' thou deſpiſeſt God's Law, ſome regard might have been expected from thee, to the Sentence of the Pope, who for that very fact Excommunicated him from the Society of Chriſtians, and denounc'd all God's Curſes againſt him. But to ſay no more of the Law of the ever bleſſed God, nor yet of the Pope, which is of a little more authority with thee, take the character of this *Sancius* from thy brother Jeſuite *Mariana*, 'he was Sir-'nam'd the *Brave* for his Courage, and was more ſucceſsful than famous 'for his Actions; true honour conſiſting not in the ſplendour of a Name, 'but in Equity, Juſtice, and Modeſty. He is infamous among Poſterity 'for having robb'd his Father, and thruſt him out of the Kingdom, 'and did he adminiſter that Government rightly, which he wickedly 'acquir'd? The ſame Author gives an account how he treacherouſly kill'd *Lupus Harus* a Grandee, who came to a Conference with him, upon his faith given to the contrary. He barbarouſly Murder'd Four Thouſand of his own men, without ſparing one of them, becauſe they were thought to favour the Sons of his Brother, when they were laying down their Arms and Surrendering, tho' they had Capitulated for their

[c] Rodericus Sancius Cap. 14. 15. & reliquis ſequent.

[a] Cap. 7. Lib. 14. de rebus Hiſpaniæ.

Great miſchiefs attend the changing the Coin of a Nation.

of Sancius.

Doleman's *impiety, in commending wicked deeds, Chaſtis'd.*

Lib. 14. cap. 8.

Sancius's *true Character.*

Mariana Lib. 12. cap. 14.

Lives, and without any Commiſeration of Sex or Age; and Again four Hundred of the Nobility it ſelf were Slain by his Command, and their dead Bodies cut in pieces at the Port, which from that time was called *Quartas*, and yet this Jeſuite reckons him a great man, and a moſt excellent King. But ſomething more ſhall be ſaid afterwards of this *Sancius*.

of Peter *King of* Caſtile.

Peter King of *Caſtile* was the moſt Cruel of all the Tyrants that I ever read of, which deſervedly got him the Sir-name of Cruel. In the firſt place after the example of *Nero* he Murther'd his Mother *Eleanor Guzman*, afterwards he kill'd his four Brothers and his Wife *Blanche*, and many Grandees of the Kingdom. The Crulties of *Caligula*, *Nero*, *Domitian* or *Commodus* ſeem to be but Sport and Divertiſement, compar'd with his. This man for his inhumane barbarities was abandoned by all his People, and as he had kill'd his Brothers with his own hand, ſo he himſelf was Slain, by the Hand of his Brother *Henry*. In this the Judgment of God was moſt evidently ſeen both on the King and Kingdom, the *Engliſh* in no wiſe aſſiſting the Tyrant, who tho' they were Victors yet ſuffered they him to be kill'd. But what was the Event or *Succeſs*? The Principal part of the Kingdom, and its Revenue, was Squandered away among the great men, that they might be Engaged to Favour *Henry*, and they were never free from War, until the Lawful Heirs of *Peter* came to be reſtor'd to the Succeſſion. He had only two Daughters *Conſtantina* the Eldeſt, who was Married to the Duke of *Lancaſter*, whoſe Daughter *Catharine*, after grievous commotions, came to be married to *Henry* King of *Caſtile*, the Grandchild of the former *Henry*, by his Son *John*; from which Marriage the Kings of *Caſtile* are deſcended at this day. The ſecond Daughter was married to *Edmund* Duke of *York*, which this cunning deceiver conceals. But as I ſaid the Judgment of God is very apparent here, who gave way to the killing of that Tyrant for his moſt inhumane Crimes, and yet preſerv'd the Kingdom to his Poſterity. But nothing that was truly great appeared in that *Henry* the Brother of *Peter* for *Doleman* to make ſuch boaſt of, nor did any *Succeſs* but what I have taken notice of follow, *viz.* The murder of his Soveraign and Brother, and the killing of his other Brother *Tellius*, and the dilapidating of the Royal Patrimony, that the Kingdom which ſtagger'd with its Novelty, might be confirm'd, by empting its Patrimony. And ſhould we overlook the other faults of this *Henry*, yet he will be for ever infamous for murdering his two Brothers.

The example of Sancius *King of* Portugal.

His next Inſtance is of *Sancius* IV. King of *Portugal*, *who* he ſays *was depriv'd and his deprivation approv'd of by the Council of* Lions, *and his Brother* Alphonſus *put in his place*. This is falſe as I have already prov'd from the Canon Law. The Eccleſiaſtical State obtain'd of the Pope, not that *Sancius* ſhould be depos'd, but only that *Alphonſus* who was his Brother and the next Succeſſor, ſhould be his Coadjutor, without prejudice to the King or his Children in caſe he had any afterwards[a]. Neither is it true that this *Alphonſus* deliver'd *Portugal* from paying homage to *Caſtile*, for that had been quitted by *Alphonſus* in favour to *Dionyſius* his Grandſon by his Daughter, and Prince of *Portugal*; which ſo incens'd the Grandees of *Caſtile* that their reſentments made them almoſt rebell againſt their own King.

[a] Mariana lib. 13. cap. 4. de rebus Hiſpan.

What

What honest man ever said, that *Henry* III. King of *France* and *Poland*, was depriv'd, *by Publick Act of Parliament*? When we all know that, after the Death of his Brother *Charles* IX. he was called by an Hereditary Right, to the Possession of the Kingdom of *France*, and left *Poland* of Choice, and was not depriv'd by them. And as the Lawyers say, *volenti non fit injuria.*

Henry iii. *was not depriv'd of the Kingdom of* Poland, *but left it.*

As to *Eric* King of *Sweden*, my answer in short is this, the *Catastrophe* of that Tragedy is not over as yet, and that Kingdom is Elective, and sometimes naturally things are undone the same way that they were constituted.

Eric King *of* Sweeden.

Christiern II. King of *Danemark* lost both the Kingdoms of *Danemark* and *Sweeden* for his intolerable barbarous Cruelties and Tyranny: But both of them were Elective; and in such Kingdoms the people perhaps have more Power. For they who have a Right to Elect Kings, use to lessen the prerogative, that they may gain the more power to themselves. And yet here none but the immediate Successor was put in his place. But what got *Danemark* by it? The fruit that they had by their rash Council was, that the Kingdom of *Sweeden* was for ever lost to *Danemark*, without any hopes of being recover'd for the future. And so the Authors of his deposition were themselves depriv'd of a great part of their Dignity and Power.

Christiern *King of* Denmark.

Doleman proceeds next to *England*, and first he mentions *Edwin* King of the *Mercii* and *Northumbrians*, but slyly as seeming to pass it over, and yet there is nothing in it to his purpose. *Edwin* was indeed slighted by his Subjects, for his youthful and Vagrant lusts, but we do not read that ever he was Depos'd by them: For he Reign'd as long as he liv'd. But at that time there was no settl'd form of Government in the Kingdom of *Northumberland*, but it was expos'd for a prey to the Neighbouring Heptarchick Kings; in so much that for Thirty years, they could not find one who would consent to be their King, untill at last they willingly subjected themselves to the power of *Egfrid*.

Doleman's *Examples of* England *examined.* 1. *of* Edwin.

As for King *John*, some of the *Barons* of *England* shew'd their spight against him, without any effect, for he dyed King of *England*, and was never Depos'd; and *Henry* III. his Son Succeeded him, who was truly a wise Prince. Nevertheless having loaded his Subjects with grievous Taxes, he was not very well belov'd by them, neither were they so mindful as they ought to have been, of their Faith and Allegiance which they had Sworn. Whence a Civil War commenc'd in the Kingdom, which was scarcely at last extinguish'd even with vast Calamities and Slaughters of the *English*. We do not read that he enlarged the Kingdom.

2 *Of King* John.

Holinshed *in the life of* Henry iii. Mat. Paris. *in eodem.*

The two other examples of *Edward* II. and *Richard* II. are both of them the Eternal reproach of *England*. For *Edward* II. was Dethron'd for most frivolous and feign'd causes. What had he done? Whom had he Injur'd by word or deed? But he Imploy'd bad Counsellours say they, first *Peter Gaveston*, and after that, both the *Spencers*, Father and Son. And what is strange in all this, that a Prince chuses one whom he trusts, and favors him more than others? Who can think that he deserv'd to be Dethron'd for chusing *Gaveston* for his Favorite, who had his Neice by his Sister, for his Wife? Which of the Peers did *Gaveston* wrong either by word or deed? search the Histories of that time, if ever any Crime was alledged against him, but only his Haughtiness, and that he thought the rest of the Nobility inferiour to himself? Was *Ahasuerus* to lose his Kingdom, because he promoted

Edward ii.

The treatment which that meek and innocent King and his Ministers met with was illegal and barbarous.

Haman

Haman a wicked man, and *ſet his Seat above all the Princes, that were with him*, as he did afterwards honour *Mordecai*? Or was *Darius* to be Dethron'd, who put the ſame Marks of honour upon *Daniel*, which the Princes and Preſidents of *Perſia* took in very ill part? Or *Pharaoh* who preferr'd *Joſeph*? Is this a Cauſe not only for taking away the life of *Gaveſton* without any form of Juſtice or fair Trial by a Conſpiracy of the Nobility; but alſo for depoſing the King? The ſame may be ſaid as to the *Spencers* the Father and the Son, whom the Noblemen themſelves after *Gaveſton* was kill'd, appointed to be Councellours to the good King. But who was ever wrong'd by either of the *Spencers*? And yet they put both of them to a moſt ignominious death *indicta cauſa* without ſo much as a hearing, with the Chancellour *Baldock* becauſe he was their friend; and then they depriv'd a moſt mild and modeſt Prince of his Kingdom, and afterwards murder'd him after a moſt barbarous manner, his Queen being concern'd in the murder of her Husband, and the whole Order of the Clergy conſenting to it. Shall we ſay that theſe things were Lawfully done? Was it not rather by a fierce conſpiracy of ſome of the Nobility, and the mad cruelty of an impudent Woman? They themſelves confeſs that *Edward* II. was of a meek and quiet temper enough, but theſe Vertues become Vices, when there are ill men to Miſinterpret them. Neither is it true, that he *was depos'd by Act of Parliament*, as *Doleman* ſays, but they who dethron'd him, pretended that he had made a voluntary Ceſſion or reſign'd, and they made way for his Son, the next Succeſſor, ſuppreſſing the rejection of the Father. No King ever Reign'd ſo well but that faults and blemiſhes and perhaps much greater than his have happened. But they pretended not to any depoſition, nor any deed of the Parliament, only that he had voluntarily reſign'd, and conſequently that he was not injur'd, ſeeing he conſented. Neither was any crime objected to *Edward*. They were unſucceſsful in the War againſt the *Scots*, the Nobility therefore to ward off the blame from themſelves, laid all their misfortune upon the King; And commonly when a man is forſaken by fortune and unproſperous, all men forſake him. Nor has *Doleman* reaſon to brag of the Succeſs that enſued: For *Roger Mortimer* the Author of *Edward*'s rejection loſt his head, and Queen *Iſabell* who had alſo conſented to it, was found guilty of Lewdneſs and Adultery with *Mortimer*. As for the King himſelf who Succeeded, *Edward* III. tho' he was Son and Heir to *Edward* II. and laid claim to the Succeſſion of *France*, and alſo gain'd Battels, yet he exhauſted *England* of its Men and Money for carrying on the War. 'Tis true, he plagued the Kingdom of *France* grievouſly, which yet towards the end of his own Reign and his Grandſon *Richard*'s was forcibly taken from him, with all his paternal hereditary Countries, to wit, *Normandy*, *Maine*, *Aquitain* and *Anjou*. And all thoſe toils and attempts with the vaſt Expences of Blood and Treaſure which were made to the irreparable loſs of *England*, vaniſh'd into Smoak. It had been much to the advantage of that Nation if it had never attempted any ſuch thing. But we ſhall treat of *Richard* II. in the ſecond part, where that queſtion is eſpecially to be conſider'd, whether he was juſtly or unjuſtly depos'd.

The Example of Richard ii. *deferr'd to the 2d. part.*

I find nothing that's extraordinary or memorable in *Henry* IV. or worthy of the commendations which *Doleman* gives him. For besides his treasonable Conspiracy against his King and Sovereign Lord, he was the man who embroil'd the Kingdom in Civil Wars, exhausted it with Taxes and Burdens much more than ever *Richard* had done, tho' he got him thrust from the Kingdom upon that pretence; and he stain'd himself also with the destroying of many of the Nobility, and gave occasion to the Civil Wars between the Houses of *Lancaster* and *York*. In which Wars a Hundred Thousand *English* men lost their Lives. And he himself, by the just Judgment of God, and all his Children and his whole Family, *Sommerset* excepted, perish'd in those troubles. But it's worth the Readers while to take notice how inconsistent *Doleman* is with himself, for he makes this very *Henry* whom he extolls in this Third Chapter of his Book, to be a most cruel Prince, and abominable for his killing so many of the Nobility in the Second Part of this very Book of his. But a Lyar shou'd have a good memory, truth is still the same, whereas the ways of lying are many. Henry IV.

Henry V. was most famous for the great things which he did, he was more prosperous in his attempt to Conquer *France*, than his Son was in mantaining it, tho' at the same time *England* by his atchievements was exhausted both of its Souldiers and Riches. Henry V.

Henry Sixth's misfortunes only made way for the true Succession, which had been interrupted by his Grandfather, but now after almost Sixty years Exile recover'd the Kingdom at last. Yet it's hard to reckon this *Henry* among the wicked Kings, whose Life was so good and innocent, that he was Canoniz'd or reckon'd among the number of Saints. Only the violating his Oath which he had Sworn to the Duke of *York*, does an injury to his memory. Henry VI.

I am not concern'd in the least at what *Doleman* says concerning *Richard* III. tho' his assertion, that *Richard was depos'd by the Common-wealth*, is notoriously false. For having by his horrid barbarity caused the true Heirs of the Crown to be murder'd, he himself Usurp'd the Kingdom, of which he was within Three Years time deservedly and lawfully disseiz'd, and also of his life, which he lost when he was fighting to maintain what he had so wickedly acquir'd: Neither was there any thing done against him by the Parliament while he was alive. Richard III.

And so of all the examples in *England*, none of them makes for *Doleman*'s purpose. For there was no deposing in the cases of *Edward* II. or *Richard* II. but a voluntary resignation. Neither did *Edward* III. or *Henry* IV. own their right to flow only from the Peoples choice and favour, nor trust to that so much as they did to the resignation of their Predecessors, and their own right of blood. Neither did great success attend either of them, unless perhaps *Edward* III. whose character I have already given.

So of all the examples brought by *Doleman* none of them answer his design, if it be not that of *Tarquin* in the Common-wealth of *Rome*, who not being a Lawful King, was expell'd by the Fury and Seditions of the People. And who left them time enough to repent of what they had done. And seeing he says that *Tarquin* was ejected and Democracy introduced *so much to the advantage and Prosperity to the Common-wealth*, why does he not prove plainly that Democracy was brought in, but content himself tacitly to insinuate it? Why does he not unmask himself who

praiſes Monarchy in words, but recommends Democracy as effectually as he can by examples? One example in *France* had Succeſs enough, but it was a horrid Crime, and God reveng'd the wrong done to *Childerick* as has been ſaid, by the ſhortneſs of the Succeſſion in the Race of *Pepin*, from which the Kingdom was taken away, by the ſame means by which *Pepin* acquired it; *that all men may be convinc'd of the Divine Juſtice and that God puniſhes the Sins of the Fathers upon the Children to the Third and Fourth Generation.* The Hereditary Succeſſion of the Family of *Hugh Capet*, is truly confirm'd by ſix Hundred years preſcription. In other Hereditary Kingdoms he has not one example, tho' in *England* he ſeems to himſelf to bring two. No Kingdom is ſo happily Govern'd, as was ſaid before, as not ſometimes to be disjoynted or rent aſunder as, diſtempers alſo affect the humane Body.

Doleman *has brought in a verdict againſt himſelf as to the whole controverſy.*

Finally this whole diſpute is determin'd, *Doleman* himſelf being Judge; for he propoſes as an axiom that cannot be ſhaken, and it is indeed a moſt firm one, that *where Force and Martial Authority take place, there is no queſtion of right to be diſputed*, or right is ſuppreſs'd. Neither do the *Cretians* always lye. Which of thoſe Facts, which he alledges for examples, were not done by Force, and Violence? Were they not determin'd by the longeſt Sword? 'Tis againſt reaſon and the light of natural Judgment, that any of thoſe deeds which were done by Violence were Lawfully done. And ſo by *Doleman*'s own Verdict, all the examples brought to confirm his propoſition, plainly prove the contrary to what he deſign'd. Beſides in all theſe examples, that of *Pepin* excepted, Kings never reſign'd, but when their Reſignation was in favour of the next Succeſſor, who was otherwiſe the neceſſary Heir. So the Son was Choſen to Succeed the depriv'd Father, or if he had no Sons, then his Brother Succeeded; which no manner of way affects our Arguments concerning Succeſſion, but rather Corroborates them, when its plainly made appear, that the next in Blood Succeeded as well to the Dethron'd Kings, as to the Deceas'd.

Doleman *part* 1. *Chap.* 4. *near the End.*

Doleman's *inference, from his pretended Lawfulneſs of depoſing Kings in poſſeſſion, to the excluſion of Heirs apparent and Succeſſors, examin'd.*

Doleman in the end of the third Chapter inſiſts on, and urges the force of his Hypothetick Syllogiſm, *if it be Lawful*, ſays he, *to Depoſe Princes Lawfully in Poſſeſſion, then much more hath the Common-wealth, Power to alter the Succeſſion, and exclude apparent Heirs from it, tho' it belong to them.* But he ſuppoſes that he has prov'd that the firſt may Lawfully be done, therefore it ought to follow of neceſſity, that the laſt may be done. As if he had ſaid, if this may be done in the Green-Tree, why not in the Dry? That we may diſcuſs that propoſition firſt, tho' as I have before obſerv'd, this Impoſtor reckons this Syllogiſm to deſcend from the Principles of Law, and alſo from the Rules of reaſoning, yet it contains a manifeſt Sophiſm and Calumny. For *Doleman* does not undertake to prove that it's ſimply Lawful, for a Common-wealth to Depoſe Kings in Poſſeſſion; but with this Qualification, that ſuch only as *are guilty of Miſgoverning the Common-wealth or adjudged to be Guilty*, may be depriv'd, which can no wiſe be ſaid of Succeſſors. Neither can any Succeſſor be adjudg'd Guilty *of mis-governing the Common-wealth*, by any Crime of his own, when he has not committed one in the adminiſtration, nor any crime of that nature.

Object. *Anſwer.*

But if he be diſſolute, ſays he, ſtubborn or very wicked, and behaves himſelf as ſuch, before he enters upon the Government, he is to be excluded from the Succeſſion. Had our Caſuiſt, been a Member of the Parliament of *England*, when *Henry* V. was Enthroned, that famous King,

King, had never been admitted to the Kingdom, *Doleman* being Judge. For no man was more diſſolute than he, before he came to the Crown; of which even the publick Comedies, that were printed, bear Witneſs. But when he was called to hold the reins of the Government after the death of his Father, he made that Proverb to be verified, *Honours change manners*, as *Polydore Virgil* ſays, and he became truly a great Prince. And conſequently *Doleman*'s ſuppoſition, or the propoſition of his Hypothetick Syllogiſm, does not hold water. For he ought to have inferr'd, thus, if it be Lawful to renounce Lawful Princes, *for miſgoverning the Common-wealth*, the ſame may be much more Lawfully done, to Heirs and Succeſſors, if they *miſgovern the Common-wealth*. But this cannot be ſaid of a Prince, who never had the Adminiſtration of the Government. So his whole propoſition falls to the ground. Neither is his Aſſumption more true. For what this man thinks he has prov'd, is plainly demonſtrated againſt him to be falſe, neither is it Lawful, to pull Kings down from their Thrones, *for Mis-government*. And ſhould I grant what he can never prove, to wit, that to be Lawful which indeed is not Lawful, that was only done in favour of the Succeſſor. For when *Uzziah* was put from the Government, his own Son *Jotham* adminiſter'd it. And when *Sancius* King of *Portugal*, as he aſſerts was depos'd, his Brother Succeeded him, and was receiv'd into his place, as the next Succeſſor; and in the mean while, had the Adminiſtration of the Government. So did *Edward* III. Succeed *Edward* II. And when *Richard* II. was rejected, the Duke of *Lancaſter*, who as this Jeſuite ſays, was next Heir, was ſubſtituted to him. And ſo all thoſe things were done in favour of Succeſſors. *Sed quæ in favorem facta ſunt, in odium converti leges non patiuntur, nec ulla naturæ ratio foret* a. *But neither the Laws nor reaſon, ſuffer the things that are done for the advantage of any perſons, to be turn'd to their hurt*; And conſequently his hypothetick Syllogiſm has loſt all its force.

The next Heir Succeeded as well to the depriv'd as to the deceas'd King.

a L. quod favore. c. de legibus.

CHAP. XX.

A refutation of the Fourth and Fifth Chapters of Doleman's *firſt part, in which he maintains the Lawfulneſs of Chaſtiſing and Dethroning Kings for miſgoverning the Common-wealth.*

Doleman perceiving that the reaſon of thoſe examples would be queſtion'd, he brings in a Souldier on his comical Stage, to put the queſtion, Whether thoſe things were *Lawfully* done or not, whether *Rightfully* and by the *Laws* thoſe Kings were forc'd to Abdicate themſelves, or whether they were unjuſtly Dethron'd? This Centurion ought to have explained and urged the Signification of that word (*Lawful*) from *Law*. For that is ſaid to be done *Lawfully* in Law which is done *lege jubente, aut per legis regulas*, that is, either according to the precept of the Law, or its Rules, or to ſpeak in the words of the Lawyers, that which is introduc'd, inſtituted or approv'd of, by ſome Law, Statute or Decree of the Senate a. And it is then truly ſaid to be a Law, when it ordains in writing,

a §. 4. Inſtit. de jure naturæ. Quod lege aliqua vel Senatuſconſulto introductum, inſtitutum aut comprobatum eſt.

ing, what things are to be obſerv'd under penalties, whether by Command or Prohibition. So he is ſaid to be a *Lawful* Heir, who is call'd to the Inheritance according to the Law of the XII Tables, and a Lawful Guardian who by the ſame Law enters upon his Guardianſhip. *Lawful* Children who are begotten in Marriage allow'd of by Law. In like manner ſhe who is Married according to Law is a *Lawful* Wife[a]: And that Portion which came to Children from him that died without a Will, was reckon'd the *Lawful* Portion of Sons, whether by the *lex Falcidia* which cut off all Legacies unleſs the fourth part at leaſt, of the Eſtate came to the Heirs, or by any other Law or Imperial Conſtitution[b]. 'Twas likewiſe call'd a *Lawful* time, and *Lawful* Uſuries which were allow'd by Law. And in ſhort nothing is ſaid to be done *Lawfully*, which is not done according to the Form or Rule of ſome written Law[c].

[a] L. 4. de ritu nuptiar.
[b] L. Humanitatis de Impuberum & aliorum ſubſtitutionibus.
[c] L. 1. §. quæ propter ad leg. Jul. de Adulterijs L. 3. §. 1. de accuſat.

But tho' *Doleman* ſpends his whole IV. and V. Chapters on this queſtion, yet he brings not one Law by which it's made *Lawful* to puniſh Princes, nor was it ever permitted to be done by any Law: Nay not by Fact, but only where *Force* and *Violence* which ſubvert all *Law* and *Right* bear Sway, as *Doleman* himſelf acknowledges, towards the end of his former Chapter. 'Tis *Force or Violence* ſaid the good Emperour *Marcus*[d]. whenever any one demands what he thinks to be due to him, otherwiſe than by the Judge. And if any man has taken what is truly his own, without due courſe of Law, againſt the will of the poſſeſſor, he is ſaid to have taken it by Force; and to have loſt the Dominion of his own Goods. Let *Doleman* take from his examples *Force* and *Violence*, and then for the matters of Fact, we ſhall Diſpute it with him, whether they were done *Lawfully* or *Unjuſtly*.

[d] L. extat. de eo quod metus caus.

Before *Doleman* comes to his reaſons, for confirming his propoſition, he endeavours in vain, to elude two objections thrown in by a Captain, who has no great Skill in Laws.

The Centurions firſt reaſon.

His firſt reaſon is, *that the people having given all their Authority and Power to the Prince by the Royal Law, he is now no more Subject to their reſtraint, but has all power over the people, and he himſelf is accountable to God alone.* *Doleman* to obviate this objection runs to a diſtinction that's made uſe of in the Schools; for he ſays, that cumulatively the people transferr'd their Right on Kings, but not privatively, as if he had ſaid, 'tis true that the people have transferr'd all their Authority on the King, yet not ſo as to deprive themſelves of that Authority, but have reſerv'd ſtill to themſelves a right and power to judge Kings and Emperours as being their Superiour. But I have already prov'd by many examples, and ſuch as are moſt unqueſtionably true, that Kings receiv'd not their Authority from the people, but acquired it by their own vertue; and made the people to be a people, and afterwards they reign'd upon the ſame foot, on which they had their Authority; even as a Family owes it to the Father of it that it is a Family, and not he to them, that he is their Parent. Nevertheleſs as to the *Cæſars*, on whom the people of *Rome* transferr'd all their Authority and all their Power, they gave it away, ſo as nothing remain'd to themſelves: Nay not ſo much as an appeal, or the Right of the *Tribunitian Power*, by which *Tribunes* only the people were defended againſt the Injuries of great men. Nothing then was reſerv'd to the people, their conſent was not then ask'd either for making or abrogating a Law: Nor in making Peace or War, as it had formerly been. And that Tribunitian word (I forbid it) was baniſh'd

The

The Princes alone did appoint Judges, Conſuls, Legats, and Preſidents of Provinces.

No Authority remain'd to the People, after the Imperial Law was made.

I pray thee, *Doleman*, anſwer me this queſtion, whether or not, after the *Imperial Law* was made, the people had any Authority, any Rights *reſerv'd* to them, unleſs what ſometimes, by the bounty of the *Cæſars*, was by a ſpecial privilege indulged them? 'Tis certainly a contradiction to transferr a thing to another and yet reſerve it to ones ſelf, neither can both parts of a contradiction be true nor conſiſt together. When *Valentinian* was choſen Emperour by the Souldiers, who uſurp'd a power not only above the people, but even above the *Cæſars* themſelves, he anſwer'd the Souldiers who importunately deſired ſomething of him, *In veſtrâ o milites, poteſtate fuerat ut me eligeretis: Sed quia me jam elegiſtis, quod petitis in meo eſt arbitrio, non veſtro.* 'Twas in your power, O Souldiers, to chuſe me, but now that you have choſen me to be Emperour, what is deſir'd by you, is in my power, and not in yours. If indeed in a delegated Authority, a meer power be ſometimes alſo granted, but yet cumulatively not privatively, that is, that he who delegates has ſtill the power as much, as if he had not delegated it, neither is he depriv'd of it by that delegation, yet it is down-right mockery to ſay that when a people have given away all their power and Authority to the King, they have reſerved ſome to themſelves. If a Prince, Duke or Earl gives away his Right, that the had, to any Province, he ſeems to reſerve no right to it himſelf, and as it is uſually ſaid in Law, *Qui vendit fundum, vendit uti optimus maximus eſt.* He that parts with an eſtate, parts alſo with all it's advantages and appurtenances. And in the feudal Law, things ſold paſs to the purchaſer with with all Juriſdiction over them. *Doleman*'s trifling when he ſays that private men may have given their voices and faith to the Prince, but the Commonwealth hath not, makes not for his purpoſe. For if all private men in the Commonwealth ſwear, nay if the greater part, the whole Commonwealth ſwears: Neither can a man undo by any contrary deed, what he has once done, nor can the Commonwealth, as *Doleman* feigns, be free from the Prince's Authority, or retain a Superior Power and Authority over him as if it had not ſworn to him, when all the people have ſworn allegiance to him.

The ſecond objection of his Suppoſititious Centurion.

The other objection is from *Samuel*, who deſcribes the *Jus Regis* or the manner of the King, that he ſhall take the ſubſtance and effects of private men, yea their Children and Vineyards, and give them to his own Servants, as if he ſhould think fit. From which this *Centurion* inferrs that it is not lawful, to reſiſt a Prince for doing wrong. The Concluſion is certainly true, tho it be from falſe premiſes. For *Samuel* in that place, does not ſet down the Laws or Rules of Government but only foretells the people, what would fall out under Kings, to wit, that the people ſhould in vain cry to God, whom they had forſaken, for help, when they came to ſuffer ſuch evils and calamities from their Kings. As if he had ſaid, theſe evils ſhall befall you, neither will it be Lawful for you to divert them, until God in his own time, deliver you from that Oppreſſion; when the ſins of the people come to be expiated, and he be mov'd by their Prayers, to commiſerate them. Neither does any man reckon it Lawful for a King, to do ſuch things as *Samuel* foretold there, they would do; ſeeing Juſtice Piety and Equity are ſo often enjoin'd Kings by God. For were ſuch things lawful for Kings,

they ſhou'd not ſin by doing them, and *Naboth*, who refus'd to let *Achab* have his Vineyard, had his deſerved puniſhment. And ſo *Doleman* is in the right, when, he ſays, that the Prophet *Samuel* fortold them, what was to come to paſs, not that ſuch diſorders were lawful. And no man, that I know of, ever made any other uſe of that Argument. Here *Doleman* patches in a difference that he makes between a lawful King and a Tyrant, that he may load our cauſe with an invidious name. And he defines a Tyrant to be one, who does not rule according to the Laws preſcrib'd to him, and a lawful King who rules according to the Laws of his Country. But he errs moſt ſhamefully in this diſtinction. For with *Livy* I define a Tyrant to be one who brought no right to the Kingdom with him or had no other right to it, but only violence, and not him who rules Tyrannically. But if he did Succeed lawfully to his Predeceſſors, tho' he rule unjuſtly, tho' he oppreſſes the people, yet he is not a Tyrant. 'Tis one thing to be a Lawful King, and another to be a juſt man, as a man may be a good tradesman, and a bad Citizen. So theſe things which are brought by *Doleman*, about his difference between a Tyrant and a Lawful King are meer trifles.

Difference between a Lawful King and a Tyrant.

Qui nullum jus ad regnum præter vim attulit.

Doleman afterwards makes a digreſſion to refute two propoſitions of *Bellay*, which have no danger in them, if they are underſtood truly and according to Law. No man ever affirm'd, as I have ſaid, Kings to be ſo free from Laws, as not to be bound in conſcience, or that they are not ſometimes to render an account for violating Juſtice, before the Tribunal of a moſt juſt God. But for all that, neither does reaſon allow, nor neceſſity which is the Parent of all Laws by a perpetual cuſtom, Authorize Kings to be chaſtis'd by, or to render an account of their actions to the people. *David* was found guilty of Adultery and of the murder of *Uriah*, even by the ſentence of his own mind; and yet he ſaid, *Againſt thee only have I ſinned O Lord*, as if he had ſaid, I am a King, and fear'd not man, as not being under his Laws. But ſaid he, *I have ſinned againſt thee, and againſt thee only, and done this evil in thy ſight.* The Ancients approv'd of this propoſition, ſuch as *Jerome* and others. And the people had done wickedly, had they called their King to account for what he did, or puniſh'd him, as ſhall be ſhown afterwards.

Bellay's two Propoſitions are not overthrown by Doleman.

Pſal. 51. 4.

Bellay's other propoſition is, That all goods are properly the Kings, and that the people have only the uſe of them, and that the King can take them away, from any of the people at his pleaſure, if *Bellay*'s meaning be, that for maintaining the Safety or Dignity of the King or Common-wealth, we are to aſſiſt with our readieſt effects, what he ſays, is true. Otherwiſe none ſay that the property of moveable goods, belongs to the Subjects. As for goods that come by Inheritance the King has only *Dominium directum, non utile.* He is the Superior, but the Property and Profit of all thoſe things belongs to them, who by a juſt Title have acquir'd them. This is the Opinion of all our Lawyers, and ſound Authors. But more ſhall be ſaid afterwards concerning *Bellay*'s firſt propoſition.

Doleman being at laſt ask'd, by what Law Princes can be puniſh'd, has his recourſe to this general maxim of his, *That God Almighty doth approve that Form of Government, which every Common-wealth doth chuſe unto it ſelf, and all the Limitations of it.* And if we enquire how he can prove theſe things his anſwer is, *that all Laws divine and humane agree in that matter.* Which is nothing in effect but this, that no right, no humane

mane Laws allow it. As Advocates or Councellours at Law, who at the Bar are deſtitute of right and Laws, at a pinch they uſe to run to that, that all Laws and all the Doctors are on their ſide, when at the ſame time, they cannot ſo much as inſtance in the Authority of one in particular, as *Doleman* does in the caſe in hand. For by what divine Law, in what Chapter of it, or laſtly by what humane Law is any allow'd *to ſtretch out his Hand againſt the Lord's anointed*? *Doleman* ſays *by the divine Law, becauſe God has approv'd that Form of Government which every Common-wealth did chuſe, and its Statutes; and that Princes are Subject to humane Laws, as much as any private man: And that the People, who gave him the Kingdom, for the preſervation and welfare of the Common-wealth, may alſo take it from him, if in the Adminiſtration of the Government he abuſes his Power to the Peoples hurt.* In the firſt place he makes the unchangeable God, to be more unconſtant, if it were poſſible for any thing to be more fickle, than the people, who as he ſays conforms himſelf to all their Orders, Seditions and Changes. In his other propoſition, he aſcribes a Lawful power, to a factious Tumltuating people, to attempt and do whatever they pleaſe. For the People never rais'd Tumults, but with reſpect to the Community, or at leaſt for all their Seditions they pretended the good of the Publick, as the reſtraining the Tyranny of the King, or the abuſes and inſolencies of the Courtiers, as in that Sedition, that was made between *Lewis* XI. and the Nobility of *France*, that Tumult took for its pretence the name of the Publick good. He makes the Rable Judges of this publick good, what it is, of what nature, or what it ought to be. This is the Theology of Jeſuites, theſe are the Fundamentals and Summ of Governing a State laid down by them, which are not otherwiſe to be expiated, but by the extermination of that Society. Yea *Mariana*, who was one of it himſelf ſays, that thoſe things which cannot be cured ought to cut off, and that nothing is a greater ſecurity againſt ſuch kind of evils than timely Severity c.

c Mariana Cap. 2. lib. 12. de rebus Hiſp.

But I with all good men, do aſſert and maintain the contrary of this propoſition, that is, that it is not lawful for the people to renounce their Prince, tho' he be a wicked man and an oppreſſor. And tho' this queſtion, belongs not ſo properly to my purpoſe, which was to treat only here, of the right of Succeſſion, nevertheleſs ſeeing *Doleman* avowedly endeavours to cut the Throat of our cauſe, through the force of his former propoſition, I reckon my ſelf concern'd to conſider it. For his inference is this, if it be lawful for a Commonwealth to dethrone a Prince in poſſeſſion, it is much more lawful to reject his Heir from the Succeſſion of a Kingdom. Now from this Fountain of Error, this Rivulet concerning the Succeſſion derives it ſelf as through a Pipe. But that I may prevent and withſtand both theſe evils, and alſo briefly expreſs my Sentiments concerning this propoſition of *Doleman*, as one among many I ſhall aſſert and vindicate the truth againſt thoſe Thraſonical vain boaſters, who are ſo highly conceited of their own deep learning.

In the ſacred Scriptures I find truly that Kings are called *God's anointed ones, and that ſuch cannot be guiltleſs, who ſtretch forth their hands againſt them* a, If God has honour'd them with his own name; and has called them *Gods*, and *the Sons of the moſt high* b, If the Prince poſſeſſes the ſeat of judgment not of men but *of God* c, If we are commanded every where conjunctly, as they ſay, ſo as one anſwers t'other,

'Tis expreſsly forbidden in the word of God, to riſe up againſt even evil and impious Princes.

a 1 Sam. 24.
b Pſal. 82.
c Deuter. 1.

to

d 1 Pet. 2. Prov. 24. *to fear God and honour the King* [d], If the King be the Common Father of the Country, and is therefore to *be honoured that our days may be long in the Land* [e], If we are obliged to *obey Magiſtrates for the Lord's ſake, that is*, if we deſire to pleaſe God, *we muſt be ſubject to the King as Supream, or Governours ſent by him*, whatever they are [f], If our Lord and Saviour own'd the Authority and Power of *Pilate*, tho' a moſt unjuſt man, to be from God; if he approv'd of the Empire of *Tiberius Cæſar* who was alſo a moſt unjuſt man, by commanding tribute to be pay'd to him, and if as St. *Paul* ſays, *there is no Power but what is ordain'd of God, and they that reſiſt the Power receive to themſelves Damnation* [g], And finally if we are expreſly forbidden *to revile the Gods or to curſe the Ruler of thy people, or to ſpeak evil of the Ruler of thy people*, much more are we bound, not to do them evil [h], Nay if they are reckon'd *ſenſual, diveliſh* wretches, *defiling the fleſh, who deſpiſe dominions and ſpeak evil of dignities*, and are ſaid *to walk after the fleſh, they deſpiſe Government, and being preſumptuous and ſelf will'd, they are not afraid to ſpeak evil of dignities*, If any man *who curſes his Father is* guilty of death *and his lamp is to be put out in obſcure darkneſs* [i], much more he who curſes the Father of his Country. I do plainly condemn this *Gygantomachia*, or fighting againſt them who are Gods, and judge it to be unlawful for Chriſtians, to ſtretch forth their hands againſt God's anointed ones, even againſt an Impious or Tyranical *Saul*, or againſt a Prince that oppreſſes the people, otherwiſe the people had thruſt out *Solomon* from the Kingdom, for burdening them with heavy and unuſual Tributes and Exactions. This I ſay in oppoſition to thoſe *Thraſo's*, who arrogate all Wiſdom and Learning to themſelves, as if they only were the men, who are well verſed in Scripture, and if they pleaſe are the only Incendiaries of the People, the only Diſturbers of a Kingdom or State. And truly for my part, I never ſaw nor read that it ever turn'd to good account to them, who attempted ſuch things, as I obſerv'd before in the Hiſtory of *Jehoram*, and *Joaſh*: but on the contrary that the Bleſſing of God accompanied them who were Obedient to their Kings and Soveraigns. *Peter* was rebuked by our Saviour, becauſe he drew his Sword, tho in a moſt Juſt cauſe, to wit, the ſafety of his Maſter againſt unjuſt and violent aggreſſors. The 2 Sam. i. *Amalekite*, who ſaid that he killed *Saul*, tho he lyed, was puniſh'd with death. *Baana* and *Rechab*, who killed a Rebell, to whom they had given 2 Sam. iv. allegiance, a Rebell I ſay againſt *David* the true King of *Iſrael*, were alſo themſelves killed by the command of *David*. Again when *Hagar* Gen. xvi. fled from her Miſtreſs *Sarah*, ſhe was commanded by the Angel, to return and to be under her Authority, and to obey her, or to humble *and Submit her ſelf under her hands*, and for her obedience ſhe bore *Iſmael* 2 Sam xxi. who became a Prince and Commander of ſo many Nations. And becauſe *Mephiboſheth* ſuffer'd patiently *David*'s two unjuſt Sentences againſt him, he preſerv'd his own life, when the *Gibeonites* requir'd ſeven of Jerem. xxv. *Saul*'s Sons to be given them to be hang'd. When the Lord by his Prophet had foretold that he wou'd give all the Countries to *Nebuchadnezzar*, he adds, Jerem. xxix. *and the Nation, which will not ſerve him will I judge ſaith the Lord, with the Sword, Famine, and Peſtilence*, untill they be conſum'd: *For in the peace thereof ye ſhall have Peace*. From theſe inſtances I reckon it to be a Villainous crime in Subjects, to Rebel, even againſt Tyrants and wicked Princes, or to ſtretch forth their hands againſt them.

e Exod. xx.

f 1 Pet. 2.

g Rom. 13.

h Exod. xxii. Act. xxiii. Jude. 2 Pet. 2.

i Prov. xx.

But

The King's power is vicarious and delegated, but it is delegated by God.

But *Doleman* tells us, that the Power or Authority of Kings is vicarious and delegated, and ſo far he is in the right, but that very thing ruines his whole cauſe. For we own that Kings exerciſe a delegated Juriſdiction, but it is delegated by God Almighty, ſo as that it cannot be delegated by any other: For the Lord ſays, *By me Kings reign.* And they are obliged, to give account of their adminiſtrations, only to him, who delegated them, require it who will. Yet ſo that it is lawful for all men to complain to God againſt the iniquity of their King, but not to any other. They are guilty of a moſt heinous injury againſt God, who ſtretch forth their hands againſt his Lieutenant or delegate, or bring the hearing and judging of his Actions, to any other than God himſelf. For if any man affronts, violates or injures the delegate of an Earthly King, he thereby becomes guilty of a moſt grievous crime, for which he may come to ſuffer death. Prov. viii. 15.

'Tis much leſs lawful for Kings than for any private man to do wickedly.

Doleman asks, are Kings then bound to no juſtice at all, but may do whatever they pleaſe to their Subjects, raviſh Virgins, their Daughters and Wives, kill whom they liſt, ſpoil them of their goods, and not be obliged to give any account of their Words or Actions, notwithſtanding that Princes were appointed for that, as the end or final cauſe, that people might enjoy Juſtice and live in Safety? And in this point at leaſt *Doleman* is in the right. Nay I acknowledge that that was the final cauſe, and that it is a greater fault in Princes to be wicked than in private perſons, and that ſometime they are to give a moſt ſtrict account of their deeds. But when and to whom? To God only, and not to thee, *Doleman*. For God is the moſt ſevere Judge and Avenger of the crimes, which are committed by Princes, but from his own Judgment, not thine, and in his own time not thine, or the time that any mortal preſcribes to him. For thou canſt not obſerve any temper or moderation in thy own cauſe, or where thou makeſt thy ſelf a party, and therefore the Authority of judging and puniſhing is neither permitted thee, nor to the offended Commonwealth: Neither oughteſt thou to think thy ſelf hardly dealt by. For the Judgments of God, are no where more ſevere and frequent, than thoſe he inflicts on Princes; more tragical examples are no where to be found, than in their ends, who rejoice at the murthering or doing injuries to the people; *they ſhall not*, as the Pſalmiſt ſays, *live out half their days.* And for their unjuſtice, God transferrs Kingdoms from Families to Families, *and the Kings throne is eſtabliſh'd by Righteouſneſs.*

The King is accountable to God only.

A wicked King is a judgment from God on the people.

We ought moreover to be the more eaſy under a Tyrants Government, becauſe he is appointed by God to puniſh the ſins of a People. For theſe evils, Peſtilence, Famine, Sword and Tyranny are publick Scourges, by which the Lord does chaſtiſe and reſtrain people when they come to be too wanton: 'Tis he indeed, who for the wickedneſs of men changes Kings, and who for the ſins of the people, *cauſes to ceaſe from* Iſrael *the valiant man, the Prophet, the Judge and the wiſe man.* And if the Earth be the Lords, and that he gives it to be govern'd by whom he will, who dare oppoſe himſelf to his inſtitution? Who will reſiſt him? For to gainſay the determinations of God, and to reject him, whom the ſets over them, is a down right oppoſing themſelves to God, and if the populace ſhou'd be ſo Succeſsful againſt their King as to get rid of him, yet another Scourge will Succeed, and perhaps a more cruel Tyranny. That's a known fable of *Æſop*, concerning the Frogs who

BRITANNICUM

who petition'd *Jupiter* for a King, who when he had thrown down a Log of Timber into the Pool among them, the frogs at firſt approach'd it with great reverence, at laſt they were more bold with it, and finding that it never mov'd, they inſulted it, and demanded another King to govern them with more Authority and Majeſty. *Jupiter* being diſpleas'd with them, gave them the Stork, who going hither and thither about their Pools and Lakes, devour'd the Frogs and every thing that came in it's way. So the woman, who pray'd dayly for the ſafety of the Tyrant *Dionyſius*, being ask't why ſhe did ſo, anſwer'd frankly, That having dayly importuned the Gods with her prayers to remove his Father, who was a moſt cruel Tyrant, yet ſeeing a worſe ſtill Succeeded to the former, experience had now taught her, to pray dayly for a long life to him, leaſt one yet worſe than he ſhould come in his place.

Some examples of forgiving injuries done by the Country.

We are indeed to wink at, and forgive the injuries done us by our Country, our Parents and Maſters; for if we revenge theſe, we run our ſelves headlong on ruine; *Marcus Coriolanus* who was baniſh'd his Country, and afterwards made War upon it, at the interceſſion of his Mother and others, forgave the wrong it had done him, even when he had almoſt ſubdued it, tho' he knew that this forgiveneſs, would afterwards ruine himſelf. *Camillus* who got the ſame reward, for the Noble Warlike exploits which he had perform'd for his Country, when he was departing the City, according to the ſentence given againſt him, pray'd the Gods only that if he was juſtly baniſh'd, his Country might have no farther need of his ſervice; and afterwards the City being taken by the *Gauls* he pardon'd his Country the injury that was done him. In like manner *Ariſtides*, after he had given ſignal proofs of his Conduct and Courage, in the ſervice of his Country was baniſh'd *Athens*, for no other cauſe, but that the people envy'd his being ſirnam'd the *juſt*; yet he pray'd for the proſperity of his Country, and that his memory might not hurt them, nor his Country ſtand in need of his Service. And *Themiſtocles*, who had the honour to be the firſt and principal man, that drove the *Perſians* out of *Greece*, was himſelf expell'd his Country, and entertain'd by the King of *Perſia*, who deſigning to renew the War againſt the *Grecians*, was to make *Themiſtocles* his General; He being inform'd of it, to prevent his being obliged to fight againſt his own Country, tho' it had been injurious to him, made away with himſelf. There are innumerable examples in Hiſtory, of the worthieſt ſort of Subjects, who have patiently ſuffer'd Injuries from their Parents, and from their Country, but few who with their own hands have aveng'd themſelves of their Parents or Maſters for Injuries receiv'd. Now the King is the Common Father of the Country, and no man, as far as I know, doubts of his being contain'd in that Commandment of God, *Honour thy Father and thy Mother, that thy days may be long in the Land.* The example of *Fabius* the Son when Conſul, ſhows us, that more honour and dignity is due to the Magiſtrate than to the natural Father; For he by accident meeting his Father, who had the power of life and death over him, yet commanded he his own Father to diſmount when the Conſul was preſent, and upon account of that very thing was commended by his Father.

M. Coriolanus.

F. Camillus.

Ariſtides.

Themiſtocles.

Exod. xx.

MVSEVM
BRITANNICVM

But

But the *Sectaries* with *Doleman* will object, that God did not appoint those Tyrants, and that no reason can be given why they should Reign, who are so far from promoting the welfare and safety of the people, that they obstruct it, seeing God cannot be the Author of evil, tho' he is the first cause of all things: And therefore Idolaters, Oppressors, wicked and cruel Princes or Tyrants are not to be suffer'd, but taken out of the way. *Objection.*

Answer, had cruelty been a sufficient cause for deposing a King, *Saul*'s Government could not have been endured, who caused the Priests of the Lord in *Nob* fourscore and five most innocent men, to be put to death, for obeying the King, as they thought. *David* after he was chosen by God, and anointed by *Samuel* to be King, who had also pronounc'd that Sentence against *Saul*, that the Lord had rent the Kingdom from him, and given it to another; yet *David* did not think it lawful for him, to stretch forth his hand even against him, whom God had rejected. *Abishai*, was enflam'd with a vehement desire to kill a wicked man tho' a King, and undertook to do it effectually with one thorough blow, alledging also that God had delivered him into his hand, and that he was a Minister appointed by God to promote *David* to the Kingdom, and to destroy a most impious King. But *David* not only rebuked him severely, but also adjudg'd *Abner* to be worthy of death, because of his negligence in not sufficiently guarding the person of his Lord. If then he, who did not carefully enough guard his Soveraign, notwithstanding his being a wicked King, was declar'd by the Sentence of a most Religious King, to be guilty of death, pray, what would he have thought of a Parricide. Neither did *Jehoram*, who began his Reign with the murder of all his Brethren, and the Princes of *Israel*, deserve the Kingdom more than *Saul*, but should have lost the Kingdom, because of his barbarous cruelty committed on his own Brothers. 'Twas moreover an instance of great cruelty, accompanied with ingratitude in *Joash*, to kill *Zechariah* the Son of *Jehoiada*, by whom himself had been preserv'd, and to whom he ow'd both his Life and Kingdom. And yet they who kill'd those most cruel and Idolatrous Princes, did all of them suffer the due punishment of Traitours and Murderers. And God who is blessed forever, call'd *Cyrus* to the Monarchy of *Persia* and *Media* and almost of all *Asia*, by the prophet *Isaiah*, a hundred years before he was born, tho' *Cyrus* did not know the Lord, but was all his life Long an Idolater; that all men may know, that it is God who disposes of Kingdoms, and he adds, that all men may put their necks under his yoke, and the Lord will visit such as refuse to do it, with the Sword, Pestilence and Famine. And *Solomon*, who was the wisest of Kings, laid grievous heavy burdens upon the Subjects, as appears by that Speech of the Children of *Israel* to *Rehoboam* his Son, and yet none of them rose up in arms against *Solomon*. *Chilperick* King of *France* is said to have entertain'd wrong notions, even as to the ever blessed Trinity, and to have err'd in the Faith, and yet he was not depos'd nor dispossess'd of his Kingdom for his impious opinions, gross immoralities or cruel Tyranny.

Answer.

1 Sam. xxii.

Negligence in guarding even a wicked King a capital crime.

2 Chron. xxi. 4.

Wherefore it is not Lawful for Subjects, to stretch forth their hand against their King, upon account of Tyranny, Adultery, murder, or even Idolatry it self; as knowing that, if in the mean time they expect with patience the judgment of the Lord, the power of Tyranny will soon be past. Many good men have liv'd under Tyrants, *Joseph* under *Pharaoh*, *Obadiah* under *Achab*, *Esther* and *Mardecai* under *Ahasuerus*, *Daniel*, *Shadrach*, *Meshech* and

and *Abednego*, were ſet over all the Province of *Babylon*, by *Nebuchadnezzar* and his Sons, who did whatſoever they pleas'd. And yet the Lord commanded his people, to pray for the ſafety of thoſe Kings, notwithſtanding that *Nebuchadnezzar* would have himſelf worſhipp'd as a God. Theſe examples may at leaſt oblige us to obſerve ſome temper and moderation, and to hope with patience that God will put an end to thoſe evils; even as we take patiently a barren and unfruitful year, in hopes that the fruitfulneſs of the next year may plentifully make amends for the ſcarcity of the former. For a Tyrant never ſtrips one ſo of all his Goods, but that ſomething remains, which, with frugality and temperance, he may live upon. And perhaps he may out-live his Oppreſſor.

The examples of good men, who were faithful and obedient to wicked Princes ought at leaſt to teach us moderation.

And ſeeing *Doleman* himſelf is not for dethroning Princes, without a juſt and lawful cauſe, ſome examination muſt neceſſarily preceed, and himſelf be ſummon'd to appear in Judgment, and be heard in his own defence, and for clearing himſelf of all crimes, with which he is charg'd. So that that affair muſt be determin'd judicially. For it would be moſt unreaſonable, to refuſe the common Parent of the Country, that juſtice which is allow'd the meaneſt and moſt contemptible wretch among the people; eſpecially if he conſent to appear unarm'd in judgment. Now it deſerves to be conſidered who can be plaintiff or accuſer, who ſhall be judge in his caſe. For it ſeems no ſtrange thing to theſe Sectaries to arraign Princes as other Criminals, tho *Cicero* ſaid, *Regem capitis reum ita inuſitatum, ut ante Deiotarum auditum nunquam.* 'Twas ſo unprecedented to araign a King for his life, that ſuch a practice was never heard of, before *Deiotarus*. And truly I cannot comprehend who ſhall be Attorney or Accuſer, or who ſhall be judge in his caſe. For among the members of the State or Common-wealth I cannot find one perſon that can be admitted by Right or Law to accuſe him. In Law a Son could not bring his Father to a Trial in a civil action, unleſs he had firſt obtain'd the *Pretor*'s Licence [b]. In a criminal action, or infamy, he could not do it with the *Pretor*'s Licence. And it is a juſt cauſe for diſinheriting a Son, if he accuſes his Father criminally.

Some examination or trial muſt neceſſarily preceed a Prince's puniſhment.

Pro Deiotaro.

[b] L. Generaliter de in jus vocando.

But to bring the Father of the Country to a Trial, in which he is ſued for his Life, Eſtate, and to be diſinherited, and all this by his own Subjects, who have the relation of Children to him, is what, I reckon, no man of a ſound mind will think to be Lawful. 'Twas juſt ſo in the *Libertus* againſt his Patron, for if one who of a bond man had been made free, had accus'd his Patron, he was recal'd to his former Servitude. But this is chiefly manifeſt in the caſe of a Vaſſal againſt his Lord or Superiour. For as to a Vaſſal againſt his Lord in an action which inferrs infamy, or in a criminal action, if that Vaſſal ſues his Lord in Law, or becomes ſurety for the accuſer of his Lord, or ſubſcribes his name as accuſers commonly do, he loſſes his Fief. The ancient Legiſlators thought very great deference to be due to Superiours ſeeing the Vaſſal held all that he had of his Superiour, and ow'd it all to his bounty and favour; and therefore who could bear with a Vaſſal's being the accuſer of his Lord? And every man in the Kingdom, whether of the Nobility or Eccleſiaſticks, or of the inferiour ranks of Subjects, hold their Fiefs of the King or Superiour, ſome more ſome leſs, ſome are obliged to Military Service, others pay Socage, others Burgage, who then will ſay that it's lawful in them to accuſe criminally their own Superiour Lord or his Heir?

Not

Not only for that reason, because such an accusation inferrs the loss of the Fief, but also because the Vassal had sworn to be faithful to his Lord, in those things that concern his Dignity, Fame, Life, Members or his Estate, and to assist and defend him.

The Commonwealth cannot be the King's accuser.

'Tis yet more absurd, what *Doleman* says, that the Common-wealth can accuse it's King. For the Common-wealth is only a mute Body, which can do nothing of its self, but a great deal by all the Members of it. If nothing be done until the Common-wealth accuses, all Kings may rest Securely and without fear on their Thrones. Let all particular persons in the Common-wealth be debarr'd from such accusations, as it's reasonable they shou'd, and then the Common-wealth will be truly κεφάλιον ἄπροσωπον, an imaginary Utopian fiction.

Subjects cannot judge their King.

Our next enquiry is concerning the Judge. For seeing Magistrates in a Kingdom are only the King's Delegates, to whom also they have sworn allegiance, 'tis absurd to say, that they have any Jurisdiction over him, from whom they have their Commission, and to whom they owe their being Magistrates, and when he ceases to be King, they cease to be Judges. For *par in parem non habet imperium ex jure*, one has no authority by Law over his equal, much less an inferiour over his Superiour. But the King owns no Superiour among mortals, otherwise he cou'd not be said to be King, as I shall shew afterwards. Therefore none in his Kingdom can be a competent Judge; Much less a Foreigner; whilst it wou'd be a wicked thing, to carry the Arbitration of things that are to be judged of at home, to Foreigners. For few strangers are much concern'd for the safety and quiet of their Neighbouring Kingdom. Nay the more all things are in confusion in it, so much the more 'tis for the Interest of Strangers, and consequently they cannot be Judges in that controversy between a King and his people.

Doleman's *Similies prove that the Commonwealth cannot Judge its King.*

But *Doleman* Part 1. Ch. 10. makes the Realm or Commonwealth it self to be Judge. Well, at this rate the condition of Kings is indeed very hard, if the Commonwealth takes upon it self both the Person of Plaintiff or Accuser, and also of the Judge. For by *Doleman*'s own Similitude, the Common-wealth, is as it were, the Wife to which the King is Married; But for any man to be accus'd and Punish'd by his own Wife, for a fault committed against her, we have never read, nay the Poets never had such a fiction, nor the Painters. But on the contrary, during the Marriage all right and power belongs to the man alone, even over his Wife's Estate. Moreover if the Body has no Power over the Head, (for *Doleman* also makes use of this Similitude) if the body is obedient to the Head, and the Senses which have their Seat in it, if the Body has no Dignity nor usefullness without the Head, how comes it about that any Common-wealth can at its pleasure, condemn or renounce its King, its Soveraign Lord, its Husband, its Father, and finally its Head? And reason it self tells us, that no man can commence a Law suit, but before his Superiour, nor be Punish'd by any other. The King acknowledges God alone for his Superiour, who nevertheless, as I said, is a most Severe and Dreadful Judge, an avenger of Wickedness, if we do not grudge him his Judgment. But he will take his own time for Vengeance and not ours, nor when we think fit, otherwise we shall Arrogate to our selves the Authority of a Judge and Superiour over God also, if we prescribe times to him; which has no other meaning, but that we take upon our selves the office of a Judge over him, and that, God blessed for ever, shou'd obey us as an apparitor, to use no harsher word.

Who ſhall be Witneſſes againſt the King.

But let's alſo grant this, and that they have found out both a Judge and a Plaintiff or Actor who ſhall be the witneſſes in ſo weighty a cauſe? Shall they be taken from the Common-wealth it ſelf? But if ſo, then their Teſtimony in favour of the Community of which they are members, in a caſe that concerns them all, is not to be receiv'd, they will be caſt as ſuſpected and partial Witneſſes. 'Twill at leaſt appear very hard to every body ſhould the Teſtimony of the party be receiv'd. But as I ſaid, the Publick or Common-wealth aſſumes to it ſelf the parts or Offices both of Judge, Plaintiff and Witneſſes. But *Africanus minor* thought, that it was no wiſe Lawful for him to be both Judge and Witneſs, in the ſame Cauſe.

Valerius Maximus.

What Sentence will be given by the People.

Chap. vii.

But then pray what Sentence will be given from the Anger and Hatred of people in their Fury? Even ſuch a notable Judgment as the *Athenians* paſt upon *Phocion*, or the *Campanians* againſt their Senate, of both which I ſpoke before. Shall we believe, that they would give the King a fair hearing, to clear and defend himſelf, of what they lay to his charge, ſhou'd we ſuppoſe him arraign'd and ſtanding before their Tribunal? No certainly they did no ſuch thing by their Kings *Edward* II. or *Richard* II. Neither of them were allow'd ſo much as a fair hearing, nor a Lawful defence, but were firſt thrown into a moſt naſty Priſon, and forc'd to reſign the Kingdom, after that without any form of Juſtice and unheard, they were both put to a moſt cruel death, or rather moſt baſely and barbarouſly murdered.

The unlawfulneſs of rebelling againſt or accuſing the King prov'd by examples.

But a farther confirmation of our Propoſition, that it is not Lawful to take arms or riſe in Rebellion againſt the King or Soveraign, may be brought from examples. For *Doleman* endeavours to effect by examples, tho' very far fetch'd and impertinent, what he cannot prove by reaſon. But on our ſide we have reaſon and Laws both Divine and Humane as has been ſufficiently prov'd. We ſhall now give ſome examples, and begin with *Ham* the Son of *Noah*, who brought himſelf, and his own Poſterity under his Father's curſe, and the Judgement that he pronounc'd againſt him, becauſe he did not cover and conceal his Father's nakedneſs: What pray then had been his puniſhment, had he laid violent hands on his Father? *Jacob* curs'd his two Sons *Simeon* and *Levi*, becauſe without his Authority, they aveng'd themſelves of the *Shehemites*, tho' they had juſt cauſe of indignation and reſentments, and took from both of them their Right of *Primogeniture*. Tho' the defection that *Jeroboam* made, was from the Lord, for the puniſhment of the ſins of *Solomon*, nevertheleſs he periſh'd with his whole Family, ſo that, as the Scripture ſays, there was not one of it left that piſſeth againſt the wall.

Gods judgments againſt Rebels.

I ſpoke before of *Jehoram* and *Joaſh*. 'Tis ſtrange that *Zimri*, who after he had kill'd his Maſter, and all his Children, Relations and others who cou'd have revenged his Treaſon and Murder, yet after ſeven days he himſelf was kill'd. Innumerable other inſtances occurr in the Sacred Hiſtory, but perhaps prophane and later examples may pleaſe better. *Creſcentius* had reſolv'd upon the dethroning the Emperour *Otho*: III. and to poſſeſs himſelf of the City of *Rome* and of *Italy*, but being at laſt overcome and taken, he was dragg'd through *Rome*, and was hang'd up, after that his noſe and ears had been cut off. *Lewis* the baſe brother of *Charles* the *Simple*, King of *France*, when under colour of guardianſhip, he poſſeſs'd himſelf of the Kingdom, was afterwards kill'd by a Bear in hunting, or, which was yet more obſervable, by that very dart of his

own

own wherewith he intended to kill the Bear. And his other brother *Charles*, who was alſo a Baſtard, had after *Lewis*'s death, attempted the ſame thing, taking no warning from his Brother's example, and purſuing on horſeback after a Virgin to raviſh her, into a porch whither ſhe fled to preſerve her Chaſtity, had his brains daſh'd out. *Charles* the Grandſon of *Lewis Hutin* and Son in Law of King *John*, when he aim'd at the Kingdom of *France*, had diſquieted not only his Father-in-Law, but his Son alſo *Charles* V. and VI. moſt intolerably, with his repeated Treaſonable Conſpiracies, neither were there any of thoſe Kings who had not pardon'd his crimes, becauſe of his near Relation to them, both by affinity, and conſanguinity; Nevertheleſs when they, who ought to have puniſh'd him, did it not, he felt that God was the Avenger of his Treaſonable Crimes; For being ſeiz'd with Frigidity in his Members, the Phyſicians had adviſ'd, that he ſhou'd be ſow'd up in cloaths dipt in *Aquavitæ* or ſtrong Spirits, that the Members of his Body might be recover'd from numbedneſs to their natural heat, and after all was ſow'd about him, there being no knife to cut the thread, one of the ſtanders by burnt the thread with a wax candle, which immediately put the Garment about him into a flame; So that this wretch'd Prince after moſt horrible roaring was burnt alive. The example of *Rodulphus* Duke of *Suabia* is little leſs terrible; for when by his too much obſequiouſneſs to the Pope, he ſuffer'd himſelf to be choſen Emperour upon *Henry* IV's. depoſition, in the third Battle (for he had been twice beaten by *Henry*) he loſt his right arm, and after it was brought him, turning to the Biſhops, he ſaid, this is that hand, which I lifted up, when I ſwore allegiance to my Lord the Emperour, which you forc'd me to break, and ſo turning to the wall he died. I think theſe moſt horrible and yet moſt juſt Judgments of God, might be ſufficient to deterr people from parting with the allegiance, that they have ſworn to their Kings. About the year of our Lord 1411. When two Brothers ſtrove about the Empire of the *Turks*, *Emir Solyman* and *Muſa Zelebi*, *Solyman* being overcome in Battel, retired to a certain Village until his forces ſhou'd be recruited. But the Country people of that place, in hopes of great rewards from his Rival, kill'd *Solyman*. But *Zelebi* was ſo diſpleas'd at this cruel deed, that he not only killed the men, who were guilty of that Murder, but alſo the Women and Children, without regard either to Sex or Age, and burn'd the Village to aſhes, leaſt the memory of ſo great a crime ſhou'd remain to poſterity a. And if a Souldier, who broke the Emperours Vine (for the Souldiers were beaten with a rod from the Vine) with which he was chaſtis'd, whether juſtly or unjuſtly, was upon that account guilty of a capital crime, what then does he deſerve who offers violence to his own Soveraign or Emperour.

A dreadful example in Charles *the Grandſon of* Lewis *Hutin.*

of Rodulphus *Duke of* Suabia.

Annales Turcicæ.

a. L. miles §. ſi vitem de re militari.

Let's then keep in our hearts, and own and confeſs with our mouths, what *Solomon* the wiſeſt of Kings has left us, *I counſel thee, to keep the Kings commandment, and that in regard of the Oath of God. Be not haſty to go out of his ſight. Stand not in an evil thing, for he doth whatſoever pleaſeth him.* That is, take heed to the Kings Commandments, and to the oath that thou haſt given him, beware that thou decline not from him, or neglect his commands, for if thou doſt any ſuch thing, he will do with thee what he pleaſes, and thou ſhalt not be deliver'd out of his hand, whilſt he who obſerves his Laws ſhall be ſafe from all Evil. And in another place. *Fear thou the Lord, and*

Eccleſiaſt. viii. 2, 3.

Prov. xxiv.

and the King, and medle not with them that are given to change, for their Calamity ſhall riſe ſuddenly, and who knoweth the ruine of them both? That is in ſhort, they who offer violence to Kings, and the Authority and Majeſty, wherewith God has cloath'd them, the Anger and Vengeance of God ſhall cruſh them to pieces. I leave the Jeſuits, who uſe their utmoſt endeavours, every where to dethrone Kings, and delight in changes and innovations in Kingdoms, to the Jugdment of God and his Curſes, which are denounc'd againſt ſuch crimes. For *that Nation, which will not ſerve* Nebuchadnezzar, *and his Son, will I viſit, with Famine, Peſtilence and the Sword, ſaith the LORD of Hoſts.*

The condition of Kings muſt be moſt miſerable if the people be permitted to accuſe them.

'Tis evident, that Kings wou'd be in a moſt miſerable condition, was that liberty of Accuſing them, allow'd to the People. For if the People had Authority over their King, his Reign wou'd be very precarious, he muſt be very obſervant of them, take great care not to diſpleaſe them, cajole and meanly ask favours of them. And he dares not execute Juſtice, nor puniſh Crimes in the People, when he knows that the People can Judge and Puniſh him again. And it's certain, that many of the beſt and moſt famous Kings, who have Reign'd with great Succeſs, Power and Forces, have nevertheleſs not only been oppreſs'd with Popular Envy and Malice, but even Dethron'd and Murder'd. For moſt Princes, are liable to be Falſely and Maliciouſly aſperſed and accuſed, and the People are apt to believe thoſe falſe aſperſious true, and commonnly they hear Lyes, with greater pleaſure than truth. So *Antoninus Pius*, tho' the moſt Innocent and Virtuous of all the Emperours was Poiſon'd by his Collegue in the Empire of *Antoninus Verus* [a]. And *Gordianus* a moſt excellent man, loſt both the Empire and his Life, by the falſe Reports and Accuſations which *Philippus Arabs*, took care to ſpread about among his Army. For were it once allow'd the People to Judge their King, he would be expos'd to innumerable Snares and Dangers. His Murderers may be call'd in queſtion or not, as the People pleaſe, ſo that he Lives in conſtant fear of his Life. For if he diſpleaſes the People, that will ſuffice for his Condemnation, as I formerly obſerv'd, it befel *Phocion* a moſt excellent man by the *Athenians*. But if the King, be kind to the Common People, then he incurrs the diſpleaſure of the Nobility, and thereby comes to be in no leſs danger. For *Cteſiphon* King of the *Meſſenians* with all his Stock and Off-ſpring was kill'd by the Nobility, becauſe of his kindneſs and Indulgence to the Common people, and his protecting them from Violence [b].

Famous Kings have been ruin'd by popular malice.

Accountable Kings are ever in danger of their lives.

Moreover the King is laid open to falſe Accuſations from every quarter, ſo that even his Virtues will be traduced for Vices; his Liberality is accounted Profuſeneſs, as it was in *Edward* II. and *Richard* II. A peaceable Prince is call'd a *Coward*, as in the ſaid *Richard*. Neceſſary ſeverity is reckon'd Cruelty, with which *Doleman* charges both *Henry*'s VII. and VIII. Nothing more ordinary, than to give the names of Vices to thoſe Virtues, which reſemble them moſt. Laſtly what can be imagined, ſo abominable to be conceiv'd or utter'd, that a giddy Mobb, inflam'd with the hatred of their King, are not capable to deviſe! They keep within no bounds, when they become wanton with unbridled Liberty, neither will they forbear to Load their King, with all kind of Reproaches and Infamy, how groundleſs and falſe ſo ever they are, when once they come to hate him, and are ſet upon Revenge. Faith and Religion will be contemn'd, and Fuel will be added to the Flames of popular Fury, by thoſe who deſign to raiſe themſelves upon his Ruin. The Lawyers then are more

The vertues of Kings, cenſur'd by malicious people as vices.

[a] Julius Capitolinus in Antonino.

[b] Pauſanias in Meſſenicis Lib. 4.

more in the right, and ſuch as are Skill'd and have experience in affairs, who affirm Princes to be free from the Laws, and not bound to give account of their Actions, to any Calumniator from among the people. Which even neceſſity it ſelf, the Fountain and Original of all natural and civil equity introduc'd, to wit, that there ought to be one, who is to be accountable to none, to fear none but God, and who is not to be compell'd to anſwer concerning any niceties in Law, much leſs to be Judged even for his Life, accuſe him who will, or to anſwer to the Calumnies of any of the moſt Seditious Subjects.

L. Princeps de Legibus.

Neceſſity exempts all Kings from being judg'd by their Subjects.

De apicibus juris.

For with what courage could ſuch a precarious King puniſh Crimes, if he himſelf may be compell'd to undergo their Sentence, whoſe Parents, Sons, Brothers and near Kinſmen, he has puniſh'd, tho' never ſo juſtly? Will not he be affraid of the people's reſentments, and ſo endeavour to flatter, ſooth, and by all means, do what he thinks will be grateful, rather than expoſe himſelf to the fury of the multitude; And ſo he cannot avoid being more contemn'd than fear'd, and conſequently all Majeſty, yea and Dignity or Eſteem will depart and be baniſh'd from his Authority and Government? He will never diſpleaſe the Multitude, to whoſe Judgment he is made ſubject, whether he will or not, but will either ſneak to them meanly, or elſe become their companion in their crimes or vices. 'Tis not without reaſon then, that the King is exempt from the bonds of Laws, and is not accountable to the people, to whom pray ſhall the multitude be obliged to give account for their doings if Kings be accountable to them? The multitude are oftner in the wrong, than the worſt of Kings, are ſubject to more grievous perturbations and diſorderly paſſions, than any even the moſt wicked King or Prince whatſoever is. And can that be juſt in the multitude which is unjuſt in the King?

An accountable King is not able to execute Juſtice.

The multitude becomes unaccountable, where Kings are accountable.

Enough has been ſaid already in the inſtance of *Phocion*, how hard it is for the unbridled multitude, if the Bit be taken out of their Mouth, to be govern'd by Reaſon, and perhaps I ſhall have farther occaſion to treat of this hereafter. For to make uſe of *Memucan*'s reaſon, when *Vaſhti* refus'd to come to the King, her Soveraign Lord, who being askt his opinion in that affair, anſwer'd, that the Queen hath not done wrong to the King only, but alſo to all the Princes and to all the people, for by her example Wives ſhall come to deſpiſe their Husbands, and diſobey their commands: Therefore *Vaſhti*, is to be remov'd from the King's Bed, that all Wives may thereby be taught to honour their Husbands. Now what is juſt in the Kings Family, will alſo be reckon'd juſt even in leſſer Families. So that if ſo great Power be allow'd the people over Supream Magiſtrates, by the ſame reaſon, the ſame Power is to be allow'd of, in leſſer Families. And then Children and Servants in a Family, may require an account of the affairs done by the Father of it, and make enquiry into his actions, what he has done rightly or amiſs, and exerciſe Juriſdiction over him. Children will ſit as Judges, (if the Gods ſuffer it) on their Father, Servants on their Maſter, where any man from his own reaſon may make an eſtimate what kind of Judgment that will be. If he chaſtiſes any of them for their faults and according to their demerits, if he refuſes to give them Money or any thing elſe that they damand, or puts them away, he muſt ſubmit himſelf to puniſhment, or he muſt relinquiſh his Power and Authority. And then they'll conſider who ſhall be choſen to Succeed in his Room, and

Esther 1.

An argument againſt the power of the People over their King from the unaccountableneſs of Maſters of Families to their own Families, &c.

undertake the adminiſtration of the Family, after he is depos'd; at laſt they will arrive at that degree of Madneſs as to think on what puniſhment they ſhall inflict on him, that they may ſecure themſelves againſt all fear of his juſt reſentments. No man, I think, wou'd be induced to be Maſter of a Family, nor a King, from ſuch an example, or at ſuch a rate, when he knows that he muſt render an account to his people, and live, not according to his own reaſon, but according to the Will and Pleaſure of his Family or People.

A General is not accountable to the Souldiers of his Army.

Souldiers in an Army deſerve to be reſtrain'd and kept under, if they ſhould offer to call their General to an account, and if they Mutiny againſt him, they are to be Puniſhed with the Rods and Axes; but if they ſhould attempt to put another in his place, and conſpire againſt his Life, as in that Seditious Conſpiracy at *Lucro* againſt *Scipio*, where they choſe a moſt Seditious and Flagitious man to Command them, what Death do they not deſerve? And yet *Doleman* aſſerts the Lawfulneſs of all ſuch facts, of Souldiers taking account of their General, Servants of their Lord, Boys of their Maſter, Subjects of their Soveraign, Children of their Father; and becauſe they are ſtrongeſt they may according to his Doctrine demand ſuch accounts. Neither is there any man, who ſees that he will not be ſuffer'd to Live, according to his own reaſon and Judgment, that will think it worth his while to apply himſelf to Buſineſs.

Livius. Lib. xxviii.

Some of Doleman's *abſurdities.*

The Power of the People over their King's is not to be endur'd.

The power therefore of the People over Kings is not to be indured, or that the Rights of Lawful Power and Authority, ſhou'd be deminiſh'd; ſeeing as I have already prov'd, that Power derives not it ſelf from the People, but the King has his Authority from God, whoſe Deputy only he is, and to whom alone, as to his Superiour, from whom he has his Commiſſion or Delegation belongs the Hearing and Judging the King. And who ever are Accomplices in any Inſurrection or Rebellion againſt their Soveraign, *They reſiſt Gods ordinance, and procure Damnation to themſelves*, by the juſt Judgment of God, whoſe Laws and Ordinances, they preſum'd to overturn and aboliſh. For that is the juſt puniſhment of that Crime. And not only reſiſting Kings, but alſo the reſiſting of ſubordinate Rulers, ſent by them, whether good or bad is to be eſchewed, unleſs we are reſolv'd to oppoſe the Laws of Almighty God. For the King in his own Kingdom is the ſame, as the Sun is in Heaven, the Father in his Family, the General in his Army, the School-maſter in his School, or the Captain in his Ship. And this is not more the intereſt of any to oppoſe rebellious practices, than it is of the people themſelves, leſt they run into the exceſſes of Licentiouſneſs. The beginnings of Rebellion look ſpecious, the progreſs is full of Miſery and Trouble, and the iſſue oft times is diſmal; And the paſt Miſeries ſeem light, when compared with the preſent. For how grievous ſoever the Government of a King may ſeem to be, even to a juſt man, yet it is in no wiſe expedient to allow the people the Power of abdicating their Kings. For by that means the Nation ſhall fall into intolerable calamities, inſtead of thoſe moſt certain advantages, which formerly they enjoy'd ſecurely, if either according to the Caprice of the furious multitude, or the humour perhaps of the ambitious Nobility adminiſtring occaſion or encouraging them to ſhake off their Kings, the people refuſe to be under the Yoke of their Lawful Kings, or change it. Their true way is to commit their cauſe to God's Judgment, who afflicts his people with calamities no longer

The King is only accountable to God, whoſe Deputy he is.

Reſiſting him threatned with Damnation.

Abdicating the King involves a Nation in grievous calamities.

longer than is neceſſary for puniſhing their ſins, and reforming their manners. For, as I ſaid, as Famine, Sword and Peſtilence are juſt puniſhments wherewith God chaſtiſes his people, even ſo is Tyranny. *Woe to the Aſſyrian*, ſaith the Lord, *the rod of mine Anger, and the ſtaff in their hand is mine indignation. I will ſend him againſt an hypocritical Nation; and againſt the people of my wrath will I give him a charge to take the ſpoil, and to take the prey.* Iſaiah x. 5, 6.

The Sins of the People Are the Faggots of Tyranny.

For the puniſhment of the ſins of a people, God makes a Hypocrite to Reign over them; for the ſins of the people are the ſtrength of Tyrants. Tyranny then is to be endur'd, as a Plague ſent from God for the People's wickedneſs, and they who will divert or take it away, do as a ſtubborn Son, who when he is juſtly Scourg'd by his Father, forcibly wreſts the Rod out of his hand, that he may be beaten with ſeverer Scourges by the hand of the Executioner in the Streets. The only method for ſhaking off Tyranny, are frequent Prayers and Supplications to God, that he may be mov'd of his own Clemency, to take away the juſt Puniſhment of their Sins. For people who cannot bear with one Tyrant, when he is taken out of the way, turn againſt one another; and the oppoſite Factions among them Fight ſo keenly, that Streams of Blood run down their Streets like Rivers, this as we read, happen'd among the Factions in *Florence*, *Genua* and other Cities in *Italy*. And that Republick of *Florence* never enjoy'd quiet, but was fill'd with Blood and Butcheries of the People, deſtroying one another untill it came to be under one Prince, as we ſee it is at this day. Whence I Eſtabliſh the quite contrary to *Doleman*'s propoſition, and that from the word of God, we are to Obey Princes, tho' they be Croſs and Wicked alſo, until God ſhall be mov'd by the Prayers of his People to remove that Plague, as he is intreated to remove from them, the Sword and Famine, leſt the People fall into Civil Wars, a much heavier Judgment, where as many Tyrants Domineer as there are Souldiers. He was in the right, who ſaid, that he would preferr Tyranny, tho' it ſhould laſt an Hundred years, to a Civil War of one Months continuance, in the firſt they have one Tyrant, but in the laſt, they are under a Thouſand; there things are done with ſome Modeſty and Decency, but here the Souldiers do all whatever they pleaſe with Impunity and without Shame.

I return to *Doleman*, who after he had aſſerted, that it's Lawful to proceed againſt, and to puniſh Kings, as well by the Divine as by the Natural Law, yea and by the Law of all Nations, yet he has brought nothing to prove or confirm this Aſſertion of his. For indeed they are alſo called *Sons of Belial* in Scripture, who did not give Obedience even to a wicked Prince. Neither are the People ever reprov'd in the Sacred Hiſtory by God, for their not Rejecting or Depriving impious Princes; and as he can bring nothing for his purpoſe from Scripture, ſo he is deſtitute of all ſhadow of proof, either from the Law of Nature, or from the Law of Nations. For he could not Inſtance in one Rule of the Law of Nature, nor bring one reaſon, by which it was Lawful for the People to offer Violence to, or deprive a King Succeeding in the Kingdom of his Anceſtors even tho' he himſelf was a Wicked Man.

But *Doleman* perceiving himſelf naked every where, and deſtitute even of the Colour of Laws and reaſon, he flees to the mutual Oath, between Kings and People, and ſays, that by it the King is not leſs bound to the People, than the People, are to the King. Tho' no man in his right

Wits,

Of the Coronation Oath.

Wits, will deny that the King is bound to the People, yet it does not follow that in caſe he abuſes his Power, it is Lawful for them to deſtroy him and all his Poſterity, ſeeing the People have by their Oath bound themſelves, as much to his Heirs, as to the King himſelf, and Heirs are not Liable for the Crimes of the Deceas'd, any farther than they are made richer by them. But be it as it will, that propoſition is not without Impiety, for all its Fucus and Cloke of Perjury, with which he covers it. Seeing there is no Man to whom Perjury is objected, who will not affirm, that the Oath has been firſt Violated by the other Party, and that wrong has been done him.

The King's Heirs ought not to ſuffer for the Faults of their Parents.

But let us examine this matter, from the beginning of every Principality, to ſee whether or not this Oath between Prince and People be mutual, or if he be not King, even before he Swears that Oath, nay tho' he never take it. For it's very certain that he is King before he Swears it, ſeeing, as I ſaid before, his Kingdom is Patrimonial, from which he cannot be Excluded tho' he never takes ſuch an Oath. Moreover every Hereditary Kings Reign, begins from the day of his Predeceſſor's death, which is always before his Coronation or Inauguration, and the Coronation is often delay'd; and yet he is no leſs Guilty of Treaſon, who kills a King before his Coronation, than he that does it after that Solemnity is over: Otherwiſe what Treaſon could have been objected to *Richard* III.? Was it the Murder of his Lord and King? To this *Richard* might have anſwer'd, that *Edward* V. never Reign'd, and that he never Swore Allegiance to him. Could any man of Senſe ever have endur'd ſuch a Mockery? 'Tis therefore undoubtedly true, that they are Kings before they are Crowned.

Kings are not the leſs Kings, tho' they never Swear the Coronation Oath.

The Oath is not mutual.

That concerning the form of the Oath is another queſtion, and I deny that it is mutual. When Kings are ſet on the Throne, they uſe to ſwear an Oath, but to whom? Not to the people but to God alone, who only is the avenger of the breach of it. For as *Alexander* the Emperour, ſaid *Juris jurandi contempti religio ſatis Deum habet ultorem* [a], 'Tis ſufficient for the Honour of Religion that it has God, for the avenger of a violated Oath. So the judgment of its violation, is to be referr'd, not to the people, but to God to whom the Oath is given.

[a] L. 2. de rebus Creditis & jure jurando.

Objection.

But they will object againſt this, that for the ſame reaſon, if the people break their Oath, the avenging of their perjury is alſo to be left to God, and the King cannot take Cognizance of it.

Anſwer.

I anſwer, that the people ſwear expreſly to the King, and the form of the Oath is ſuch as that by it, the people are bound to the King and to his Heirs for ever, and yet none of the Subjects are puniſh'd for their perjury in breaking this Oath; but for their violating his Laws and Royal Majeſty and Authority, to whom they are Liege men, and as ſuch they are bound to defend and maintain the ſafety and dignity of their King. And if they violate that, they become obnoxious to condign puniſhments. So then that Oath is not mutual, as *Doleman* falſely thinks, but the King ſwears to God, and the People ſwear by God to the King. Yet is the King not leſs liable to the Divine vengeance, if he breaks his Oath, than the people are to the wrath of Man. So that that rule in the pontificial Law comes not home to this caſe, *Fruſtra fidem ſibi præſtari quis poſtulat ab eo qui fidem aſe præſtitam ſervare recuſat.* 'Tis in vain for any man, who refuſes to perform his Faith given, to require from that perſon to whom it was given, the performance of that Fidelity which he had promis'd to him. For the queſtion here is not concerning meer

meer Fidelity, but of that which is confirm'd with an Oath. But here I am forc'd sometimes to do the part of a Canonist. For the Gloss on that place expressly prescribes that rule to contracts or promises, that are among private men, not where the thing promis'd is to be perform'd to God. For such things as are promis'd to God are to be perform'd without any distinction or evasion, altho' one party refuses. For instance in Matrimony, if one of the married persons violate it by Adultery, the other is bound: For he who swears absolutely and not conditionally, is bound to fulfil his Oath. Others make another distinction, to wit in the same fact, but not in different facts. Now the judging the King and the judging the people are different, the facts different, the people are to be punish'd as transgressing the Law, the King is not so Subject to the Laws, or to the penalty of the Law, as to be compell'd, or to undergo punishment. So that rule is foreign to our purpose, nor does that Title *De jure jurando* agree more to it, in which the Popes think, that an Oath even in a *dishoneſt thing* is always to be kept, unless an absolution from that Oath, be obtain'd from the Pope. For the Popes affirm that an Oath extorted through fear is to be kept, if it can be kept without the ruine of ones safety, and that he who of choice and not through necessity goes contrary to that Oath, is perjur'd, and is to be excommunicated c. We own with the Canon Law, that an unlawful Oath is not to be perform'd, but I would know of *Doleman*, whether or not the Oath which is given the King by the people, be an unlawful Oath? I see not any thing else, in any Chapter of that said Title that makes for *Doleman*. But God forever blessed, wills us to perform our Faith once sworn, even to wicked men, and to them who break their Oaths. And he objected to *Zedekiah*, his despising the Oath, that he had sworn to King *Nebuchadnezzar*; and that he had made void the Covenant of the Lord, to which he had bound himself, *I will visit him saith* the LORD. For *Zedekiah* was at that time a Tributary King to *Nebuchadnezzar*, and did swear fealty to him, as to his Superiour Lord. Therefore *Nebuchadnezzar* tho' he himself was unjust, might justly punish him, because he had promised Allegiance to him, and to this God himself bears Witness.

Distinct. 33. Quæst. 5.

Titulus de Jurejutando. In re turpi.

c C. c. Si vero aliquis. ibid. c. quærelam. ibid.

But granting also this to *Doleman*, that the Prince has sworn to the Commonwealth and to the people, I would have *Doleman* to distinguish the Commonwealth, from all the single persons in it. If the whole people or any particular person hold a Fief of their Superiour Lord, that Commonwealth or whole Community is bound to that Superiour, and the Lord to that Commonwealth; and yet what is done to the Commonwealth, is not said to be done to every particular person in it. Neither, tho' every single person has offended against the Lord of the Fief, has the Commonwealth offended, unless it be said that what was done, was by common counsel and advice. Neither tho' the Superiour had wrong'd one, two, three, ten or twenty in the Commonwealth, can he be said to have wrong'd the Commonwealth; or that he loses the *jus dominii directum*, his Superiority. We know that by the Feudal Law, the Lord of the Fief loses his Superiority or *Dominium Directum*, for the same offences for which a Vassal forfeits his Fief, if the Vassal offends against his Lord. But here the King is Lord or Superiour, the Commonwealth or Community is Vassal, or instead of a Vassal. Wherefore tho' the King has offended many wicked persons in it, has oppress'd or kill'd this or t'other man, taken away their effects, or polluted their

The Community is to be distinguished from single persons in it.

The Community is not wrong'd, tho' single persons be aggrieved.

Houſe he cannot be ſaid to have tranſgreſs'd againſt the Community, or to have violated or wrong'd it; Neither does a leſs number, as they ſay, make the Commonwealth, neither can the faults committed againſt ſingle perſons, be drawn to the Body of the Commonwealth.

But *Doleman* will inſiſt, cannot a Prince offend ſo againſt the Commonwealth as that he may be Lawfully and deſervedly renounc'd and diſclaim'd by the Commonwealth? I anſwer, that as long as he continues a King, and Soveraign, he cannot; nevertheleſs ſometimes there may be a caſe, in which a King may deſervedly be diſown'd by the people, as if he make a free and independent Kingdom to hold of another, as *John Baliol* made the Kingdom of *Scotland* Subject to *England*; for which deed he was renounc'd by his Subjects. So *Richard* I. made the Kingdom of *England* Tributary to *Henry* the Emperour. But he did that while he was detain'd Priſoner by that Emperour. But King *John* the Brother of *Richard*, during his Brothers impriſonment, promis'd firſt to the King of *France* to become his Vaſſal, and that his Kingdom ſhould depend upon him, upon condition that he ſhould promote him to the Kingdom in his Brother's abſence; and afterwards made the ſame offer to *Miramolin* at that time, the powerful Emperour of the *Saracens* and *Morocco*, if he would ſend forces to aſſiſt him againſt his Barons [a]. He did truly at laſt Subject *England* to the See of *Rome*, but he may be pardon'd for that deed in that Age. For upon the account of Piety only, it was cuſtomary in thoſe days for Soveraign Princes, who had the Rights of Majeſty, to become Vaſſals to the *Pope*. So *Peter* King of *Arragon* made his Kingdom Subject to the Pope *A. D.* 1204 [b]. The ſame thing was done afterwards in the Kingdoms of *Caſtile* and *Portugal*. And in the diviſion of both *Indies*, that was made between *Ferdinand* and *Emmanuel*, Kings of *Caſtile* and *Portugal*, both Kings made their new Kingdoms ſubject to the Papal Seat. For then the Emperour was made to truckle under the Pope, and the deſtinies had ſo order'd it, that the man of ſin, ſhould be lifted up above all them who in Scripture are called Gods. So King *John* was not ſingular in that, nor ſo much to be blam'd, for his becoming the Popes Vaſſal; ſeeing it was common among Kings in thoſe Ages, to make themſelves his Vaſſals. But I ſee not how it ſhould be Lawful for a King, who has the Rights of Majeſty or the Royal prerogatives, and who is independent on any other, to enſlave himſelf and his freeborn Subjects to any other King. And if he does it, he may for ſuch a deed be renounc'd by freeman, whom he intended to abandon to Slavery; and that without any wrong done him. For he is not a King, who ſetts another King above himſelf, or Subjects his own Vaſſals to a foreign Power. Seeing a Vaſſal is by the Law, obliged to acknowledge his Principal Lord paſſing over the immediate Superiour. Wherefore if the King by that deed makes himſelf a Subject, or transferrs his Kingdom to another, or deſires to transfer it, he ceaſes by his own deed to be King, and then he may be withſtood, nay and renounc'd too, but, as I think, only in that caſe, yet ſo that it ſhall never be lawful to lay violent hands on him, or that any prejudice be done to his poſterity, if he have any, of whom people may hope better things.

[a] Matth. Paris. Hoveden. *The life of K.* John.

[b] Mariana Cap. 21. Lib. 11. de rebus Hiſp.

Coronations and Coronation Oaths are only declaratory of Right.

But to reſume our diſcourſe from its very principles, I aſſert that neither Coronations, nor Coronation Oaths were introduc'd from neceſſity, but that before their Coronations they are as well call'd and really are as much Kings as they are after it, and that the Coronation with the

the Oath is only declaratory and an over act, with respect to the publick Right; And as the giving of the Ring in Marriages, which yet are as valid both in Law and Fact, tho' no Ring had been made use of; For many who have no Rings Marry. And as in the Solemnizing Marriages, some things are essential, and somethings only Ceremonial. In like manner in Kingdoms, the Right is from Succession, the Coronation and Interposition of an Oath, is only a declaration of the Right, that the beginnings of the new King's Reign may be more August, and highly regarded by the Subjects. *Moses*, *Joshua*, *Gideon*, *Samson*, *Eli*, *Samuel*, who had Royal Power and Authority, never swore to the people, nor *Saul* himself who was King, nor *David* who Succeeded *Saul* at his inauguration in *Hebron*; neither the Kings who came after him, nevertheless they were Kings, and the Rights of Majesty belong'd to them. For we do not read, that any of the Kings of *Judah*, were Crown'd. And tho' *David* took the Crown of the King of *Ammon*, and it was also set on his Head, yet this was not done in the beginning of his Reign, but many years after. And *David* was no less their King before than after he was Crown'd. I except *Joash* only, who is said to have been Crown'd by *Jehojadah*, besides him no other had that Ceremony, but Anointing and the Acclamations of the People, declar'd the King. For even Priests of the Levitical Order were Crown'd: So the Crown was not the ordinary Sign, as they call it, of Regal Power, before the times of *Clouis*, who first embrac'd the Christian Faith. Before that the Kings of *France*, having on a Helmet, were carried through the Villages in a Chariot, that was drawn by a Yoke of Oxen, and by Military acclamations, were proclaim'd Kings. And instead of that unction that was us'd among the *Israelites*, the acclamations of the Souldiers took place, among the ancient Kings: As at this day among the *Tartars*, *Persians* and *Macedonians* they tie a white Ornament, which the *Persians* call *Tyara*, about the Head of their Kings. The *Grecian* Kings contented themselves with a Scepter, which was a little staff or batoon that they carried in their hand; the *Roman Emperours* took the Purple, when they entred upon the Government. The *Turkish* Emperours have not the Solemnity of Coronation to this day, nor the Kings of *Spain* as *Doleman* acknowledges. The acclamation of the Souldiers, was the only Ceremony in the inauguration of the *Gotthish*, *Lombard* and *Parthian* Kings, and also among the *Hunns* and the ancient Kings of the *Franks* and *Vandals*. Shall we say that during the heparchy in *Britain*, all the *Saxon* Kings were Crown'd, or the Prince of *Wales*, before he submitted to the *English*, tho' he was as much upon the matter a King as their Kings were?

Declaratoria juris publici.

Kings who did not Swear an Oath to the People.

Insigne ordinarium.

Different ways of inaugurating their Kings, were taken by different Nations.

Emperours and Kings who were never Crown'd.

Moreover all Kings and Emperours were anciently in the Camps saluted Kings and Emperours, by the acclamations of the Souldiers. So *Pelagius* and *Garcias* were made and receiv'd for Kings; the first of *Asturia*, and t'other of *Navarre*. *Ferdinand*, *Maximilian* who was his Son, and his Nephew *Rodulph*, never receiv'd the Emperial Crown, which is kept at *Rome*, and yet they were never a whit the less Emperours for their not being Crown'd. *Edward* V. is reckon'd among the Kings of *England*, and yet he was never Crown'd. Nay and the most August Queen who owns her self Queen of *France* and *Ireland*, as the King of *France* is King of *Navarre*. And yet he never saw *Navarre*, nor she either *France* or *Ireland*. Shall we say that they have no Right to those

thoſe Kingdoms, becauſe they never were Crown'd. Queen *Mary* of *England* was call'd to the Government, but the Dukes of *Northumberland* and *Suffolk* oppos'd her, purſuant to the Will of the laſt King *Edward* VI. in promoting *Jane Gray*: Both were beheaded, and moſt unjuſtly as *Doleman* will have it. For they committed no crime againſt Queen *Mary*, becauſe what they did, was before her Coronation. They had alſo been impriſon'd by her order, and yet ſhe could give no ſuch order according to *Doleman*, nor were they lawfully beheaded; ſeeing they neither did nor could commit any Treaſon againſt her, after ſhe was Crown'd. Therefore it muſt be acknowledged, that *Mary* was Queen before ſhe was Crown'd.

The Solemnities then of Coronation were firſt begun by *Clodovix*, and made uſe of by the reſt of the Kings afterwards for the greater State; but I do not read that before his time, Kings uſed Crowns. And thus much may ſuffice to be ſaid of Coronations.

The Coronation Oath is only a Solemnity, and not eſſential to ones being a King.

The ſame things may be ſaid of the Oath, which Kings uſe to take at their Coronation. *Trajan* is believ'd to be the firſt Author of this Oath, who is ſaid to have Sworn to obſerve the Laws, ſtanding before the Conſul. But when did he it? 'Twas after that he had receiv'd the Government, as Son of the Emperour *Nerva*; and that he did it meerly to engage the People more cloſely to himſelf, as that ſaying of his has been applauded in all Ages ſince, when he gave the Sword to the *Pretor*, ſaying, at the ſame time, *pro me, ſi merear in me.* And yet *Adrian*, the *Antonnes* and moſt others, of whom we do not read, that they took any Oath, to promote the ſafety and welfare of the People of *Rome*, were as much Emperours as he who Swore to do it. *Siſenandus* in the Council of *Toledo*, Swore to Four Prelates of that Council, to to advance the Catholick Faith, and to ſuppreſs *Arrianiſm*; but there is nothing ſtrange in this, ſeeing he Uſurp'd the Kingdom, having driven out his Brother *Swintilla*, for he took that Oath on deſign, to get the Biſhops devoted to his intereſt. I do not read, that any other of the *Gothiſh* or *Spaniſh* Kings took that Oath, untill ſuch time as the Inauguration was perform'd by the Biſhops. They, indeed uſed to require an Oath of the Kings, to promote the See of *Rome*, and Eccleſiaſtical Order. In *France* after *Pepin* had poſſeſs'd himſelf of the Kingdom, Pope *Zachary* made him Swear to be obſervant of the *Roman See*, and then ſet the Crown on his Head. This *Pepin*, who had got the Kingdom by the baſeſt Crime, was the firſt that compell'd the People to Swear to him, being Juſtly affraid of his new Title, which he knew was naught. *Capet* follow'd his Example, that thereby he might engage the People the more firmly, to be faithfull to him, and to his Off-ſpring. And on the other hand, he ſwore to the People to adminiſter juſtice impartially to them all, that by this mutual Bond he might confirm the People to himſelf, and have them devoted to his intereſt upon whatever emergents. *Capet* took care to have his Son *Robert* take that Oath, as afterward *Henry* did, and his Son *Philip*, tho' he was but Nine Years of Age. For both of them being affraid of the like changes, as they had ſeen fall out in their own time, took care to have their Sons Crowned, in their own life time, tho' otherwiſe *Philip* was ſo Young, that he was not capable in Law to give an Oath. 'Tis clear then from what has been ſaid, that neither the Coronation, nor the Oath that then is taken, are declared to be *inter Subſtantialia*, as we uſe to ſpeak, that is eſſential to the being

being a King. That this is no Singular opinion of mine, may appear from what *Bodinus* says on this head, for he confutes their opinion, who asserted that the right to the Kingdom of *France* was acquired from the Coronation at *Rheims*, and that consequently that Crown depended on the Election of the Popes, and chiefly on the Arch-Bishop of *Rheims*: For he asserts, that it was purely Hereditary, and that the beginning of a Kings Reign bears date, not from the day of his Coronation, but from the day of his Predecessors death. *Bodinus* adds further from the very archieves of *Rheims*, concerning the Ceremonies of Crowning the King, that the Arch-Bishop said these words, when the Crown was set on the Kings head, *accipe Coronam regni hujus, quæ tibi jure Hæreditario debetur*. That is, *take the Crown of this Kingdom, which appertains to thee by an Hereditary right*, which *Doleman* knavishly passes over, even as he says falsely, that *Philip* swore when he was Inaugurated. For the Arch-Bishop was Satisfied with his bare promise, a Copy of which *Bodinus* has inserted, in the place above cited. So that Coronations are derived from the example of *Clodovæus*, and the Coronation Oath from *Pepin*, when Pope *Zacharias*, before he would allow him the Crown, forc'd him to Swear to such Laws as he prescrib'd to him. Neither was that Oath, nor that Coronation in use among ancient Kings.

Bodinus Lib. 1. Ca 8. de Repu lica.

Let us now consider the Form of this Oath, that we may discover the Cheats and Tricks of this Impostor. In all the forms, which he has transcrib'd, the Emperour or King Swears only three things. First, that he shall Religiously Reverence and maintain the *Roman Church*. Whence it is easy to gather when such a form of a Coronation Oath was receiv'd. Now Mr. *Doleman*, do you think that when the most August Queen, and the most Serene King, who have embrac'd the true Reformed Religion, send a bill of Divorce to the Pope, that then their Subjects are Absolv'd from their Allegiance? Yes, this was your main design, from the beginning, and which you have pursu'd with all your arts and vigour, and especially tho' covertly in this book of yours, that thou may'st perswade the Subjects of *England*, that they are free and Absolved from their Oath of Allegiance, if the Queen has not according to that form Sworn the Coronation Oath, or has not kept it. For I know no other reason why thou should'st have been so particular in describing it. The Second thing to which he Swears, is to keep and observe the Laws, and to administer Justice equally to all; which the King is obliged to do, tho' he never Swears. And thirdly not to diminish the Patrimony of the Kingdom, and beyond all Peradventure it is not more the Interest of the People than it is his own Interest to preserve it. For as to the two first Heads, the Knights who are called Baronets, Swear the same things and more, and yet if any thing be promis'd to them, and the Promise confirm'd by an Oath, it is not Lawful to elude that Promise, with a Calumny, that they have violated their Oath, which they took when they were Knighted. Is there any thing in these two Articles, which is not contain'd in our Baptismal Vows, when we give up our Names to Christ? And is it then no Injury if a man break his Faith to one that lives not as he ought to live? We all own our selves obliged to obey all God's Commands, tho' in truth they are but few that duly attend to them. So that this manner of Oath, gives nothing of Right either to the King or to the people, nor ought they, to injure him tho' he omitts it.

Concerning the form of the Coronation Oath.

The guile and deceit of Doleman.

The immediate Succeſſor is King, even before he is choſen by the People.

What *Doleman* adds, concerning the Election of the people, and that the next Heir is not King, except the people admit him, appears to be evidently frivolous, from what has been ſaid already. Shall not the Heir enter upon his Inheritance, untill the people give their aſſent? But what I pray, is *this Election* of the people, which makes the King? Is it the acclamation, which the people uſe to make while he is ſaluted King? If that makes one a King, then was *Richard* III. Lawful King of *England*, for the people huzza'd him, as much as others. (Lately in the admiſſion of *Antony* the Baſtard to be King of *Portugal*, what acclamations of the Multitude, what tokens of publick joy, appear'd there?) Nay *Richard* was Crown'd, and took the Coronation Oath, and even, *Dimmocks* appeal to the Combat, was not omitted. Muſt that which is done by a few Traiterous Conſpirators, who murder their Soveraign (as fell out in *Edward* III. and *Henry* IV.) be reckon'd the deed or Election of the whole people, when they only had the acclamation of the dregs of the Tumultuary *London* Mobb? 'Tis quite otherwiſe, for tho' the peoples conſent was never ask'd, tho' they never huzza'd him, he is nevertheleſs a Lawful King, even before and without theſe acclamations, and moſt who obtained them were unlawful Kings.

But that *Doleman* may ſay that I treat him gently, what does he inferr from all this reaſoning of his? Is it that the people are loos'd from their Oath of Allegiance, in caſe the King breaks his Oath firſt? Should we grant him this, he could make nothing of ſuch a conceſſion. For tho' no Oath was given by either Party, or if both Parties were free, yet it is not Lawful for the people, by the Laws of the Kingdom, (tho' the people have not ſworn to theſe Laws) to riſe in Arms againſt their Soveraign, or to call him to account. For as I ſaid before, there was no Oath among the *Muſulmans* or *Saracens*. Nay nor among the *People* of *Iſrael*: Nevertheleſs it was not Lawful for the people to do any thing againſt their King, or if they committed any treſpaſs againſt him, they were to be puniſhed according to the Laws of their Country. How many are there in *England*, who never took the Oath of Allegiance, and yet they are never a whit the leſs liable to the Laws. And conſequently neither that Oath, nor the acclamations of the people, are eſſential or of Neceſſity, but only that ſome appearance of ancient Majeſty or State may be retain'd.

Subjects are oblig'd to be Faithful to their Kings, tho' they Swear no Oath of Allegiance.

In Fiefs, tho' the obligation of Fidelity between the Lord and the Vaſſal be mutual; yet it's only the Vaſſal who ſwears: becauſe Equity requires, that the Vaſſal ſhou'd truſt his Superiour, who is not ſworn, and he who demands an Oath of him, detracts from the dignity and Honour of his Lord.

The King cannot be puniſh'd by the People, tho' the obligation between him and them, were mutual.

To bring this diſpute to a Concluſion, 'tis certain, that tho' the obligation between Prince and Subjects were mutual, yet the whole people, tho' met all together, could not of themſelves puniſh their one head, leſt they themſelves who were injur'd, fall together with him into ruine, and ſhare of his puniſhment. Neither can the head be puniſh'd without endangering the whole Body. *Plato* ſays indeed, that the people cannot Lawfully inflict puniſhments on their Prince, even tho' he be faulty in his adminiſtrations, as he can on them. Neither have Children the ſame power over their Father, as he has over them; nor Souldiers over their General. And at Sea, we bear with the Commander of the Ship, even tho' he be an ill man, whilſt we are expos'd

In Critone.

to

to Storms, and the Dangers of the Sea. Neither could we approve, of that Scholar's behaviour, who beat his Master, tho' he had sworn to do every thing, that was for the good of his Scholars. And to use that example, so frequent in *Doleman*, The King is the Husband of the *Common-wealth*, and its head also, and the Faith of Husband and Wife is mutual; yet it does not follow, that the Wife is Superiour or Equal to the Husband, tho' he swore to be faithful to her. Neither is the man to be reckon'd inferiour, because he plights his Faith to her, but with her Fidelity the Husband receives Power and Authority over his Wife, and all her goods, at the same time with an Oath. Now if he beats his Wife, or uses her ill, or wasts all her Estate prodigally, does he forfeit his Authority, and Command as a Husband? Or is he to be rejected by his Wife? So in the head, tho' it make a wrong use of all its senses, yet it cannot be punish'd by the Body, without the destruction of the Body; and therefore it cannot be arraign'd by the Body. In War, the Commander in chief and the Souldiers are mutually bound to one another, and yet that Commander's power is not lessen'd by his Oath, neither if he should discharge a Souldier, or a Company of Souldiers ignominiously, or make them run the Gantlet, can the Souldiers judge him, or is it Lawful for them to refuse his Orders. In Cloisters the Abbot or Prior, gives to and receives an Oath from his Monks, and yet he can neither be accus'd nor degraded from his Authority by them.

Let then the Majesty of Kings continue Sacred, and let us ever be firmly persuaded of this, that the Tranquillity of the Commonwealth, and the safety of the People, consist in performing all dutiful obedience to Kings. And Princes shou'd do well and wisely, and consult their own interest, to think that they shou'd use the least Liberty, in their greatest Fortune and prosperity.

CHAP. XXI.

The Rights of Succession are consider'd; and Doleman's *opinion,* That in the Succession of a Kingdom, Right is not sufficient, *confuted.*

Doleman having spent the first five Chapters of the first part of his Book, in confirming his proposition, which is that *Kings may be Lawfully depriv'd for Misgovernment*; He prepares himself in his sixth Chapter, *To Deprive the Successor of his Kingdom*, which indeed is the true design of his whole work. And in the first place, he recites four propositions of *Bellay*, a Frenchman, which if they be understood rightly, and according to Law, are no way hurtful. For if Kingdoms are Patrimonial, and Succession be both of Divine and Natural Right, and the Lord said, *by me Kings Reign*, as has already been made appear, whosoever is the Successor, and how so ever qualified, he owes the Kingdom, not so much to the favour of the people, as to the blessing of God, and to primogeniture: which at the same time he may be said to owe to the people, who receiv'd those Laws, from the beginning of Kingdoms, to continue in all Ages,

Bellay *defended against* Doleman.

Ages, I mean, the Laws, by which the Heir, is called to Succeed, to the Eſtate of his deceas'd Predeceſſor. Neither are Patrimonial Eſtates to be taken away either from a wicked man, or from a Deaf, Dumb, Lame, or Mad-man, *quoad dominium*, nor can it be done without injury and an offence againſt God and Nature, and even againſt Right and humane Laws themſelves. Is a covetous wretch, who huggs his Money, grudges himſelf neceſſaries of Life, and gives nothing to the poor, or to his neareſt Friend, to be therefore Robbed of his Wealth, becauſe he is unworthy to poſſeſs ſuch plenty? No man I preſume can take away his Goods (tho' the poſſeſſor of them be moſt unworthy) without being guilty of a very great crime. Beſides this, the Nobility and people, can never get clear of their Oath, by which they have bound themſelves, to be Faithful and obedient to the King, and to his Heirs. And in the firſt King, all his Heirs and Succeſſors are Crown'd even as we ſay, is done in Fiefs.

Succeſſion is attended with greater advantages than Election.

But *Doleman*, that he may avoid, being thought quite delirous or impious, confeſſes indeed that Succeſſion is preferable by far to Election; Becauſe things continue more quiet in that than in this, and that greater Benefits accompany Succeſſion than Election: But notwithſtanding this he will not allow, that the People are ſo tied to it, but that if the next Succeſſor be a Wicked man or diſſolute, or be unfit for the Adminiſtration of the Government, another of the ſame Family, tho' more remote than he is, may be put in his place, that Election may be joyn'd to Succeſſion; ſo that without Election, Succeſſion ſignifies nothing, according to his Scheme, which is as much as to deſtroy all Right of Succeſſion, and to give it to Election. For ſays he, *great deference is due to Succeſſion or Priority of Blood, if this Propinquity be clear and evident.* ('Tis eaſy to know why he adds theſe words) *Among all Nations it is only a Step towards the Succeſſion*, and alſo a lame Step, unleſs he have the Qualifications which *Doleman* requires *and be willing, and underſtands how to Govern, and that the next in Blood has no more right to Adminiſter the Government, than the Mayor of* London *hath to the Mayoralty after he is Choſen, and before he at his Admiſſion hath taken his Oath. Or the King of the* Romans, *in the Emperours Life-time.* This compariſon, the firſt part of which is not very Honourable, has been already expos'd as trifling and Inſignificant, in relation to ſuch things as deſcend to Heirs by Succeſſion; 'tis the ſame thing, upon the matter as if he had ſaid, all that Man's Patrimony, who has not skill enough to order his own Affairs or his Eſtate, is to be taken from him; or he is not deſerving enough, who has it, and therefore he is to be Stript of what he has. Such reaſoning may hold in Elective Dignities, where Laws or Conditions are given and receiv'd, or where the bare Adminiſtration is only given, but not in the Hereditary Succeſſion of an Inheritance, wherein the Heir does not Succeed, by vertue of any new right, but by that Law which was Eſtabliſh'd from the beginning of the Kingdom, and ſo this King is not made ſuch, but is born to be a King.

Doleman's *Metaphors conſider'd.*

Firſt from the Mayor of London, and from the King of the Romans.

His ſecond Metaphor of Marriage.

His ſecond Metaphor from Marriage, does him as little Service; ſeeing for the reaſons lately brought, nothing is done here, but by the will and conſent of the parties. But it is otherwiſe in Succeſſions, in which is conſider'd, not what the parties will, but what the Law has appointed. Neither is Succeſſion like a Pontifical Contract for a future marriage; Seeing the King who firſt inſtituted the Kingdom, join'd the Commonwealth

mon-wealth to himself as well for his Heirs, as for himself; and he was Solemnly invested with it, both for himself and for his Heirs, and with himself, all his Heirs were invested. He took moreover an Oath of Fidelity of the People, for himself, and for his Heirs forever, the obligation of which can never be cancell'd or dissolv'd without the Will and Consent of the receiver. So that there is not an *English* Subject who does not make himself liable, to the Guilt and Punishments of manifest Perjury, in case he admits or owns any besides the true Successor, for his Sovereign Lord: Seeing this Contract is not at this time new and voluntary, but the Execution of it, necessarily depends on the Force and Obligation of the first Contract.

The Successor is King before he is crown'd.

I have already made the Falseness of *Doleman*'s Assertion, to wit, *That the Successor is not King, tho' his Predecessor be Dead, untill he be Crown'd and admitted,* sufficiently appear. For the Successor is vested with the Kingdom from the death of his Predecessor; so that the Death of the one, becomes the Investiture of the other; and that the Coronation is no more but a Publick Declaration of his right, and * That the people are askt after the same manner if they will have such a King to reign over them, as the Chief of the Family of *Dimmocks*, being in Armour enters the Hall, where the Crown'd King sits at his Coronation Feast, and Challenges any man to Fight him, who denies the King that is then Crown'd, to be a Lawful King. No man in his right senses will contradict him, either then or at the Coronation. But if either the approbation of the people, or the *Dimmocks* parade makes one a Rightful and Lawful King of *England*, then *Richard* III. was such, for he had both. But as I have said before, these Interrogations and Solemnities, are perform'd meerly that some Form of Ancient Election may be Represented, and that Kings may in some measure be put in mind of their Duty, at their very receiving of the Kingdom, lest they should think, that they may do what they please.

The Right of Primogeniture *is always to be preserv'd.*

What *Doleman* brings concerning *Esau* and *Solomon*, is against the Principles of his own Divinity; for he draws into Example, what God himself has done, *Extraordinario Judicio*, by an Extraordinary designation; and from thence infers a Right for men to do such things; and yet these very Instances afford nothing for his purpose. For *Esau* sold his *Birth-right*, to his younger Brother, and *Reuben*, *Simeon* and *Levi*, were for the Injuries which they did their Father, and the Slaughter of the *Shechemites*, justly depriv'd of their *Birth-right*, which was given to *Judah*, who after them was the Eldest Son, and so the Dignity of *Primogeniture* was preserv'd to him, who had not offended. And *Adonijah*, who took the Kingdom against his Father's will, was disinherited, and *Solomon* was chosen by the Oracle of God himself, and he was also a Type of our Saviour. And tho' many of *David*'s Son's were Elder than *Solomon*, yet none of them save *Adonijah* were then alive. But those are not to be made examples, neither can a Law be founded on those Extraordinary Vocations.

* Note, *That this is a vulgar Error, and that the People are not ask'd If they will have such an one to Reign over them; but quite the contrary, the Arch-Bishop tells them, This is your Lawful, Rightful King; and then asks, If they be willing to do their Homage to him? At which they all make their Submission as to a Rightful and Successive, not to an Elected, King; but this is very pardonable in an Author of another Nation.*

Doleman is much deceiv'd, while he meets with that Expreſſion in good Authors, *and the People made ſuch, and ſuch a man King*, to think ſuch an expreſſion a good Argument, for adding Election to the rights of Succeſſion. He may find many places in the Sacred Hiſtory, if he ever reads it, where the like Expreſſion is us'd: For example, *All* Iſrael *went to* Shechem *to make* Rehoboam *King*. And the Inhabitants of *Jeruſalem made* Achaziah *King* inſtead of his Father. *So they brought forth* Jehoaſh *the Kings Son and put the Crown on his Head, and gave him the Teſtimony*, or the Law of God in his hand, to defend it, *and they made him King*, and *Jehoiada* the high Prieſt and his Son's anointed him, and they clapt their hands and pray'd, *God ſave the King*. And afterwards *The people of the Land took* Jehoahas *the Son of* Joſiah, *and Anointed him and made him King*. And whom elſe ſhould they chuſe or declare to be King, but the true Heir? For, as I ſaid, Election in that caſe is only for declaring the Kings right, and that King and People, may be the more ſtrictly bound to one another, not that any new right accrues to the King by their Election. As if the *Engliſh*, after the Death of the moſt Serene Queen ſhould receive the true Succeſſor, make him King, and put the Crown on his Head, yet we could not ſay that he had Aſcended the Throne, by the Election of the People, but by his own right of Succeſſion. *Henry* VIII. appointed by Statute, his Son *Edward* to be his Heir, and after him in order his Daughters *Mary* and *Elizabeth*, and they Reign'd Succeſſively in the ſame order, ſhall we ſay then, that they obtain'd the Kingdom, upon the account of that Statute, or Will of *Henry*, and not by the right of Succeſſion. We have a moſt clear example of this in the *Roman Commonwealth*; for the Senate decreed the Law, the People Eſtabliſh'd and Ratified it, yet both together made the ſame Law, to the People of *Rome*. So *Birth-right* makes a King, the people receive, and own the Perſon, who has it, and yet he is ſaid to be rais'd to the Kingdom by his Right.

Election hinders not the right of Succeſſion.

The way of making a Law in the time of the Roman Commonwealth.

Senatus decernebat, populus jubebat.

What *Doleman* ſays of *Henry* V. is very ſurpriſing, to wit, *That it only happen'd to him among all his Predeceſſors, to have Homage done unto him, before his Coronation, and the Oath of Allegiance taken, for his Excellent diſpoſition, even from his tender Age.* For *Henry* V. Tho' he became moſt famous in War, yet, as *Polydore* ſaid, *Magiſtratus mutavit mores*, He reform'd his manners after he came to be a King. For before he began his Reign, no man Liv'd more Diſſolutely or Flagitiouſly, or kept more Infamous Company, as both *Polydore* and *Holingſhead*, and the very Comedies that were publiſh'd at that time, bear witneſs. And had *Doleman* been Chairman of that Parliament, this *Henry*, had not been made King. From his example, we ſay, that it may ſo happen, that Magiſtracy may make a good man of a diſſolute Youth, that we may not deſpair, of a mans good diſpoſition and Vertue, from the Liberty he takes in his Younger Days. What was there ſtrange in this, that the Peers ſwore Allegiance to him, before his Coronation? For the next day after his Father's Death, he was publickly with the uſual Solemnities declared King, as other Kings had been, whoſe Reign was proclaim'd the next day after their Predeceſſor's deceaſe, or at leaſt as ſoon as could be. And this ruines *Doleman*'s propoſition entirely, who aſſerts that Succeſſors are not Kings before their Coronation; For homages are ſtill due from the time of the former Kings Death, tho' they are not commonly perform'd with ſo great Solemnity, untill the Eſtates of the Kingdom be aſſembled in Parliament. So *Henry* VI. was proclaim'd King the very day after his Father's death, and yet his Coronation at *Weſtminſter* was

A diſſolute Youth Sometimes comes to be a good man.

was delay'd Eight years, and he was not Crown'd at *Paris*, until Ten years after his Father's death. *Henry* VIII. tho' he was publickly declared King, in *April* 1509, was not Crown'd before the end of *June*. In like manner a Month interven'd, between the Proclaiming and the Coronation of his Son *Edward* VI. In Queen *Mary* two Months and some days, as many in *Elizabeth*. Shall we say, that there was an Interregnum all this time; shall we say that there was no Magistracy in *England*, all that time, or that no Treason could be committed, either against the Kingdom, or those Kings because they were not Crown'd? Nay by *Doleman*'s determination, *Richard* III. committed no Treasonable Crime, when he Murther'd *Edward* V. and his Brother. For that young King, was not then receiv'd by the People, nay nor ever receiv'd, tho' he be reckon'd among the Kings of *England*. And yet that Deed of *Richard*'s was one of the most heinous Crimes, that ever were committed by Mortals. But this very *Richard* was chosen, acknowledg'd and crown'd by the People, as Lawful and Rightful King of *England*, and had Allegiance given him. And *Robert Dimmock* acted his part, in the Solemnities of Coronation, as much as had been formerly done at the Inauguration of their truly Rightful Kings: And yet it would be downright Dotage, to say, that he was Lawful and Rightful King of *England*. Wherefore that Coronation as it cannot make a Tyrant or Usurper a Rightful King, so the not being Crown'd cannot prejudice a Lawful King, so as that the Rights and Prerogatives Royal, do not as much belong to him before, as they do after the Coronation is perform'd. Otherwise for what Crime, was the Duke of *Northumberland*, and his Accomplices, punish'd capitally? For if *Mary* was not then *Queen*, because she was not Crown'd, no Instance of Treason could be committed against her; nay he promis'd to obey her, as soon as she should be proclaim'd Queen, by the Heraulds, tho she was not at that time declar'd. He attempted nothing from that time, to the day of her Coronation, nor could he, being Prisoner all that while. Whether or not *Henry* IV. and *Edward* IV. were Kings by Election shall be consider'd by and by. And the Inauguration of Sons in their Father's Lifetime proves no more, but the provident Care of their Parents, that no room after their Decease, may be left to *Doleman* or to one of his kidney, (who might think it Lawful to reject the Right of Succession,) to be the Author or at least the occasion of Innovations.

Some of Doleman's *Absurdities.*

But I come now to consider *Doleman*'s examples, which he brings in the Seventh Chapter of his first Book, by which he undertakes to illustrate the lawfulness of the people (whom he always honours with the Title of *Commonwealth*) their rejecting the next in Blood, upon just causes, from Succeeding to the Kingdom. And first this Impostor omitts the principal thing, that is, who and how many of the people make the *Common-wealth*. And Secondly which is the main question, what the causes are, for which one who by the Divine, Natural, Common and Municipal Laws is Lawfully called to the Succession, or has Right to Succeed, may be excluded. And *Doleman* himself owns, that it is not to be done upon every slight occasion. But to come to examples.

Doleman's 7 *Chap.* 1 *Book examined.*

First as to *Saul* and *David*, seeing their Kingdoms proceeded from the extraordinary and secret counsel of God, they are no precedents, or as the Lawyers speak, we are not to inferr any thing from them; neither can a rule be establish'd from those extraordinary things, as I observ'd

His example of Saul.

obſerv'd already; nor does Succeſs either make or inferr Right; nor was *Saul*'s deed the cauſe, for which his Son was rejected. 'Tis true that the Father's deed does ſometimes prejudice his Son, in the Succeſſion of a Kingdom. Yet that does not always hold, unleſs God by ſome particular revelation, alters the order of Succeſſion, and transferrs the Kingdom from one Family to another, as he declared that he would transfert the Kingdom of *Iſrael* from the Poſterity of *Saul*, to *David* and to his Poſterity. But what part, did the people take to themſelves, in this matter? What was tranſacted there, by the common deliberation, of the people? As it is abſolutely falſe, that *David* was Elected by the people, for the Sacred Hiſtory tells us moſt plainly, that he was choſen by God, and that *Samuel* even when he knew not *David*, was commanded to go to the Houſe of *Jeſſe*, and to anoint *David* to be King; ſo impudent is *Doleman*! *Adonijah*, who, whilſt his Father was yet alive, preſum'd to invade his Throne, was excluded from the Succeſſion, both by the Laws of God and man, and diſinherited of the Kingdom, tho' ſtrictly ſpeaking the Inheritance or Right of Succeſſion in the Kingdom in *David* was not as yet eſtabliſh'd by God, at leaſt not in *Adonijah* the Elder Son, but in *Solomon*. And tho' God afterwards did viſit the ſins of *Solomon* in *Rehoboam*, yet the Prophet ſays expreſly that, that was from the Lord, ſo that it is not to be aſcrib'd to the people. And therefore it is an impiety in *Doleman* to draw that into an example, which ought not to have been done, unleſs God had order'd it by ſome of his Prophets, to whom he reveal'd himſelf; whereas 'tis certain, that there is no ſuch voice of God now, ſince *he has Spoken unto us by his own Son* and his Apoſtles, but what is delivered to us in the Holy Scriptures.

Adonijah.

Rehoboam.

The general Rules which are to be obſerv'd, in relation to the examples in Spain, France *and* England.

Tho' as to *Spain*, *Doleman* errs often both in diviſion, and in ſuming up the account, yet I did not intend to inſiſt on a confutation of ſuch trifling things, leſt this work ſhould ſwell to too great a Bulk. But I ſhall only lay down three General Rules, by which the principal fallacies, and calumnies of this Crafty Sophiſter may appear.

The firſt Rule.

The firſt of which is, that *Spain* in the time of the *Gothiſh* Kingdom, whilſt the *Goths* held it only by force of Arms, having torn it off from the *Roman Empire*, which in Revenge, plagued them with a conſtant War, he who during that time had the greateſt Reputation for military Conduct and Proweſs, and the greateſt number of Vaſſals and Dependants, had the greateſt Honour among them, and was called King, and Succeeded to their deceas'd General or King. In thoſe days they had no Coronations, no Solemnities in their Elections, beſides Military Acclamations, by which they nam'd the perſon, they would obey; no regard was had to Blood in the Succeſſion. What relation had *Athanaricus* to *Fridigernus*, or, *Athaulphus* to *Alaricus*, or *Sigericus* to *Athaulphus*, or *Wallia* to *Sigericus*, or *Theudoretus* to *Wallia*, or *Theudas* to *Giſalaricus*, or *Agila* to *Theudas*? Theſe and many more, obtain'd not the Kingdom by the line of Succeſſion, but partly by Factions, with which the Army was peſter'd, partly by conſent of the *Romans*, and partly by ſome other occaſions, which were many among the *Goths*. Wherefore no body ſhould be concern'd at what was done in the Fourth and Fifth Council of *Toledo*, which were held, whilſt the Sovereignity among the *Goths* in *Spain*, depended wholly on military Election.

The Second rule is this, when *Pelagius* and his Posterity endeavour'd from that small part which remain'd to them in *Spain* to restore the *Gothish* Kingdom, it sometimes happen'd, that the most famous Kings among them Died, leaving only Children who were Infants or under Age. But in that deadly War, with the *Moors* and *Arabians*, in which the contending Parties aim'd at the utter Destruction of one another, and the contest was more for their Lives than Victory, necessity, which dispenses with Law, made them to declare the next in Blood, the Vice-roy who might perform all the Kingly Offices, especially in War. For as it is plain from *Serres* or *Serranus*, who wrote *the Inventory of the History of France* most accurately, and from most other Writers, that it was a receiv'd Custom, that while the Heir of a Kingdom was under Age, the next in Blood to him was Substituted in his Place, commanded the Army and administer'd the Government, as is manifest from *Doleman* himself, and *Morales*, whom he mentions. Hence it was, that later writers reckon'd him King, because all things were done in his Name. Laws, Edicts, Rescripts, Ordinances, and lastly, all publick Deeds, were ratified by his Seal and Hand writing, tho' he was only Viceroy, Notwithstanding that perhaps he got the Crown of the Kingdom, as shall be said afterwards. But he held the Scepter and wore the Purple, under the Character of a Guardian, and as *Administrator* for another, which we our selves have seen sometimes. Even as among the *Persians*, the Belly was Crown'd, that is, the Mother who was with Child of the Heir of the Kingdom, as we read in *Cedrenus* of *Saporus* II. King of *Persia*. 'Tis less strange, if the Pupil was Crown'd in his Guardian. 'Twas truly a Law in our Country, that the next in Blood, after the Decease of a King, whose Son was under Age, was King during Life, but when he died the Kingdom return'd to the true Heir, untill *Kenneth*'s Crime in Murdering the true King, gave occasion to alter that Law.

The Second rule.

Ambros. Morales.

The Third rule is, that which I propos'd before, That examples for the most part are of things that are not to be imitated; and that they tell us rather what has been done, than what ought to be done, neither can right be safely Built on such Foundations.

The third general Rule.

These things premis'd, the first example that is brought after *Pelagius*'s Kingdom began, is in his Son *Favilla*, who when he had Reign'd two years only, had his Children excluded, *Alphonsus* sirnam'd the *Catholick* Son in Law to *Favilla*, was Chosen King of the *Goths*, or of *Leon* and *Asturia*, as *Doleman* says. Both these assertions of his are false, for the most famous *Spanish* Historians say nothing of *Favilla*'s Sons, or that he left any behind him. *Roderick* Arch-Bishop of *Toledo*, *Sancius* Bishop of *Valentia*, *Vaseus*, *Alphonsus a Cartagena*, *Lucius Marinæus Siculas*, *Franciscus Tarapha*, yea *Joannes Mariana*, who has lately written a most exact History of *Spain* [a], affirm that *Favilla* left no Children behind him, but that *Alphonsus* the *Catholick* succeeded to him, being Son in Law not to *Favilla* but *Pelagius*; and that *Favilla* dying without Children, the Kingdom devolv'd on the said *Alphonsus* in the right of his Wife.

The first example of the exclusion of Favilla's *Succession is false.*

[a] Cap. 4. lib. 7.

'Tis true that *Froila* or *Fruela* Succeeded to his Father *Alphonsus*, and that he kill'd his Brother *Vimeranus*, as also, that himself was killed, for that same cause, by his Brother *Aurelius*. Yet this *Aurelius* was not the Nephew of *Alphonsus* the *Catholick* by his Brother, but his third Son, and he held the Kingdom as Administrator of *Alphonsus* the Son of *Froila*, whom he also adopted, to avoid hatred, lest he should seem to Claim

His Second example in Froila *is also false.*

the Kingdom for himself, and he Reign'd Six years only. But *Alphonsus* the Son of *Froila*, not being of Age for Government, *Silo* Son in Law to *Alphonsus* (for he had *Adonisda* the Sister of *Froila* for Wife) Succeeded, and Reign'd Eight years. *Alphonsus* the Son of *Froila* seem'd fit enough to Govern, when *Mauregatus* a Bastard of the *Catholick*, being in Confederacy with the *Moors*, possess'd himself of the Kingdom, the space of Five years; but when he came to be Universally hated, he was depriv'd, not only of the Kingdom, but of his Life, by *Veremundus* the Son of *Vimeranus*; yet *Veremundus* would not Reign long. For the Second year after he was King, he restor'd the Kingdom to the true Heir *Alphonsus* Sirnam'd the *Chast*; neither would ever *Veremundus* have taken the Kingdom, but to restore it to the true Heir. All hatred against *Alphonsus* whose Father *Froila* had kill'd *Vimeranus*, the Father of *Veremundus*, was laid aside. And *Alphonsus* himself Sirnam'd the *Chast* having never Married, that he might return the Obligation that *Veremundus* put upon him, took care that *Raymirus* the Son of *Veremundus*, who was also his neareſt Kinsman should Succeed in the Kingdom; and when he was a Dying, made him to be declar'd and own'd for his Successor. So this most deceitful *Doleman*, most falsely asserts, that in those Kings there was a change of the Royal Family and Succession. For all that time the Kingdom continued in the same Family, unless that in the King's minority, the next Prince of the Blood had the Government; which was necessary for carrying on the War against the *Moors*. But this Impostor is out himself and deceives others, while he says that *Raymirus*, tho' the next in Blood, Succeeded by Election only, following some *Spanish* Historians, who report that he was Elected, after the Death of *Alphonsus* the *chast*. Or because he was Elected, did not he therefore Succeed by Right of Blood? Pray what other true Heir and Successor had they, that was nearer in Blood? Or whom else should they have Chosen? For that Chusing, was only a Declaration of Right, when the Estates meeting together, agreed to the right of the new King, and commanded it to be declar'd to the People by Publick Proclamation, as I have said already.

Veremundus restor'd the Kingdom to the true heir.

Mutual good offices among the Children of Alphonsus the Catholick towards one another.

As for *Ordonius* II. who left only two Sons (whatever this trifler says) to wit *Alphonsus* and *Ranemirus*, *Sancius* affirms that he had none, and says that it was his Brother *Froila* only who left four Sons [b]. Yet it appears from his Author, *Morales*, that *Froila* the Brother of *Ordonius* Succeeded only, upon account of the nonage of *Alphonsus* the Heir; others say that he invaded the Kingdom by force of Arms? For my part, I am of *Mariana*'s Opinion, that the Writers of the History of that Age were Shamelessly Negligent, for, as he says, they blunder'd intolerably, being often destitute of the light of History [d]. So that no good Argument, can be drawn from them. Now *Ordonius* who Reign'd only a Year and two Months, if we may believe *Toletanus*, restor'd the Kingdom to the True Heir *Alphonsus*, the Son of *Ordonius*, and he betaking himself to a Monastick Life, was Succeeded by his Brother *Raymirus* or *Ranemirus* Yea when *Alphonsus* became a Monk, he Substituted his Brother *Raymirus* in his stead, which he would never have done, had he had Children of his own. Nevertheless some thought, tho' I believe they were in a mistake, that he left his Son *Ordonius* an Infant, expos'd to all Injuries and destitute of all Safe-guard [h]. But this *Raymirus* put out the Eyes of both the Sons of the former *Froila*. God thus avenging the wickedness of their Parent [i]. To *Ordonius* III. who left a very young Son, his Brother *Sancius* did

His third example concerning the Succession of Ordonius ii. *is false.*

[a] Tolet. Cap. 23. lib. 4. Franciſc. Tarapha in Ordonio ii.

[b] Cap. 45. lib. 3.

[c] Marian. cap. 3. lib. 8. de reb. Hiſp.

[d] Cap. 7. lib. 8. de rebus Hiſp.

[e] Roder. Tolet cap. 4. lib. 5 de rebus Hiſpaniæ.

[h] Marian. cap. 5. lib. 8.

[i] Ibidem.

did not Succeed, but *Ordonius* IV. was his Successor, yet *Sancius* the Brother of *Ordonius* III. deprives *Ordonius* IV. both of the Kingdom and of his Life. For as *Rodericus Sancius* Bishop of *Valentia* observes, he seiz'd the Kingdom, through Tyranny, and this *Sancius* the other Brother of *Ordonius* III. Reign'd, and after him his Son *Raymirus*, all of them in the Nonage of *Veremundus* the Son of *Ordonius*. *Mariana* says that that *Sancius* by Force, possess'd himself of the Kingdom, having by the Assistance of the *Moors*, driven out *Ordonius*, and that being enslav'd to them, he led an Ignominious Life. And seeing the true Heir Succeeded them, I Pray what is strange in this, that the next in Blood took upon him, the Administration of the Government, during the Minority of the Heir of the Kingdom, tho' there must be a palpable Error in this History? For this very *Alphonsus*, whom *Doleman* makes Son to *Ordonius*, is said by *Franciscus Tarapha*, to have Succeeded in the Kingdom to his Father *Froila*[b]. So *Rodericus Sancius* makes the same, not to be the Son of *Ordonius* but of *Froila*. Tho' I did not design to Baffle *Doleman*'s Errors in this point, yet one thing that is most certain, in the History of that time, is against him, that nothing that is to be relyed upon, can be drawn from the History of that time, or if any thing, it's only this, that the next in Blood during the Minority of the true Heirs, whilst they had most Bloody Wars with the *Moors*, was Governour of the Kingdom, who gave place to the true Heirs, after they came to be of Age. Now what has *Doleman* gain'd in that whole *Series* of the Succession of *Pelagius*, tho' he Promises to bring many examples from it for his purpose? He has not brought so much as one all this while. For what he says of the Family or Line of *Pelagius*, failing in *Veremundus* III. and that the Race of the Kings of *Navarre* did Succeed, is a downright Falsehood, seeing the Off-spring of *Pelagius* Reign at this day, and is continued by *Sancia* the Sister of *Veremundus*, who was married to *Ferdinand*. Prethee, *Doleman*, why is the order of Succession more extinguish'd in *Veremund* III. than it was in *Favilla*, whose Sister was married to *Alphonsus* the *Catholick*, as *Sancia* was to *Ferdinand*. Neither can the line of the Succession be said to be interrupted, either by one or t'other of those Marriages, which is continued by Females, as it happen'd oftner than once in the Kingdom of *Leon*, and with excellent Success.

[b] In lib. de Regibus Hisp. &c.

[c] Ib. lib. 3.

Mariana Cap. 12. lib. 8. de rebus Hispaniæ.

In his third Race, which he calls the Race of *Navarre*, he brings two examples, one in *Lewis* IX. who tho' he was Lawful Heir of *Castile* and declar'd by his Grandfather on his Death-bed to be so, yet when he saw that he might live either in *Castile* or *France*, tho' he was beseought and pray'd by the *Castilians*, to receive the Kingdom of *Castile*, he refus'd it. So in this instance the true Successor was not depriv'd or excluded, but though he had the Right of Succession, yet would he not accept of the Kingdom. *Bodinus* says, that the Letters which were sent by the Nobility of *Castile*, by which they invited *Lewis* to take upon him the Kingdom, are still extant among the *Archives* of *France*. And it is therefore a down right lye, to say that *Lewis* was excluded by the Estates of *Castile*, because he was a Stranger, when he refus'd that Kingdom, tho' he was with great Submission invited to accept of it, and preferr'd the Kingdom of *France* to it, being sensible that he could not enjoy both. So did *Henry* III. who a little before was chosen King of *Poland*, as soon as the Kingdom of *France* devolv'd upon him, by the Death of his Brother *Charles* IX. he hasten'd to *France*; as well

His fourth example is also repugnant to truth.

Bodinus Cap. 15. lib. 6.

bib

sensible

knowing that he muſt have loſt one or t'other of thoſe Kingdoms. Yet ſeveral *Spaniſh* Authors ſay, that *Blanch* the Mother of *Lewis* IX. was younger than her Siſter *Berengaria*, and that *Berengaria* was twice or thrice declar'd Succeſſor in the Kingdom in the life time of her Father. *Bodinus* relates, upon the credit of the *Spaniſh writers*, that *Blanch* the Daughter of *Lewis* IX. was given in Marriage to the King of *Caſtile's* Son, upon condition, that all Right of the Kingdom, which belonged to the Father, ſhould be granted to his Son in Law; and ſo that affair was ended by that Tranſaction [a]. To him agrees *Mariana*, who ſays that the Ambaſſadours of *Lewis* IX. were preſent at the Marriage of *Edward* I. King of *England*, to wit the *Marqueſs* of *Monferrat*, and there it was expreſly provided, that the King of *France* for himſelf, and in name of his Children, ſhould quit and diſclaim all Right, that he was believ'd to have to the Kingdom of *Caſtile*, as being the Son of *Blanch* the firſt born; and ſo that controverſy was determin'd by agreement. Nor was any injury done, to the next Succeſſor, ſeeing he who conſents willingly has no wrong done him.

Mariana, Cap. 7. lib. 12.

[a] Bodinus lib. 1. cap. 9.

Mariana cap. 18. lib. 13.

His other example, concerning the two Brothers of *Alphonſus de Cerda* Prince of *Spain*, who tho' he was the firſt born of *Alphonſus* X. who wrote the aſtronomical Tables, and was called the *Aſtrologer*, (for I think *Doleman* means him) it is true what he relates of the excluſion, of the Sons of that Eldeſt Brother, and that *Sancius* his Second Brother did Succeed. But writers are not agreed in their accounts of this *Sancius*. Some ſay that he wreſted the Kingdom by force from his Father, and as *Doleman* ſays, ſhut him up in Priſon. Others call him the *brave*, and that he obtain'd many Victories over the *Moors*, and was renown'd for his famous actions, but I have given his Character before from *Mariana*. But *Doleman* confeſſes, that that affair was afterwards agreed between *Sancius*, and the Sons of *Alphonſus*, *who at the ſuit of their Uncle* Philip III. *of* France *were deliver'd from Impriſonment, and had certain Lands beſtowed upon them*, which as he ſays, they accepted of in compenſation for their Title to the Crown. But I rather believe *Rodericus Sancius* Biſhop of *Valentia* who affirms that the Kings of *Spain*, deſcended of that very Family of *de La Cerda*. I ſhall recite the words of that Hiſtorian leaſt the Reader ſhould think, that I put upon him [a]. *Thus did John defend himſelf againſt the Duke of* Lancaſter *both in point of Right, and as to matter of Fact*, 'For *among other things ſaid he, Granting that the Lady* Conſtantia 'Dutcheſs *of* Lancaſter *was Eldeſt Daughter of King* Peter, *yet it can be* 'prov'd *that neither* Peter *himſelf, nor his Father, nor* Ferdinand IV. *his* 'Grandfather *were by any Right, Lawful Kings of the ſaid Kingdoms; be-* 'cauſe Alphonſus X. *who was Elected Emperour of* Germany, *the Father of* 'Sancius IV. (*of whom* Doleman *ſpeaks*) *begat* Ferdinand de la Cerda 'before *he begot that* Sancius, Ferdinand de la Cerda *married the Lady* 'Blanch, *Lawful Daughter of* Lewis *King of* France, *by whom he had two* 'Sons, Alphonſus de La Cerda *who entitled himſelf King, and* Ferdinand. 'And *when* Alphonſus *died without Children, his Brother* Ferdinand *Suc-* 'ceeded *him, whoſe Daughter was given in Marriage to the* Prince of Portu- 'gal. *Of that Marriage there was only a Daughter* Joanna, *who was married* 'to Henry *the Father of the aforeſaid* John. *And therefore, the Countrys* 'of Spain, *belong'd evidently to the ſame* John, *who by his Mother was Suc-* 'ceſſor *to the* Cerda's, *neither did thoſe Kingdoms belong at all to the above* 'nam'd Dutcheſs of Lancaſter, *nor to her Father* Peter, *by conſequence they did*

His fifth example of Sancho was ended by tranſaction.

[a] Roder. Sanc. Cap. 22. partis 4.

The Children of Alphonſus de la Cerda did Succeed at laſt.

did belong to the above said Kings. But that affair between *John* and the *Duke of Lancaster* was ended by Treaty and Agreement between the parties. For *Henry* III. Son to *John*, took *Catharine* Daughter of *Lancaster* to Wife. And so, as the same *Sancius* says, the Kingdoms of *Castile* and *Leon*, were by all Rights forever consolidated in the Person of the said *Henry*. But this shall be farther clear'd afterwards.

Ferdinand sirnam'd *La Cerda* Son of *Alphonsus* X. the *Astrologer*, married *Blanche* Daughter of Saint *Lewis* IX. King of *France*, by whom he had *Alphonsus* sirnam'd *La Cerda*, (and so that sirname had its rise not in *Alphonsus* but in *Ferdinand*) who was Grandfather of Queen *Joanna* Wife to *Henry* II. and she was great Grandmother of *John* II. So that *John* himself was seven removes in a straight Line from Saint *Lewis* IX. King of *France*. Here the Bishop of *Valentia* makes it evident, that tho' by *Sancius*, and his Tyrannical Usurpation, *Alphonsus* the Heir of the first born, and his Heirs were excluded from the Kingdom, yet they were afterwards restor'd to their Right. For *Ferdinand* succeeded to *Sancius*, *Alphonsus* XI. to *Ferdinand*, and *Peter* to *Alphonsus*. But the posterity of *Sancius* ended in *Peter*, and the Kingdom of *Castile* return'd to the Family of *La Cerda*, to wit to *Joanna* the Niece of this *Alphonsus de La Cerda*, and the Wife of *Henry* II. King of *Castile*. *Mariana* has the same thing, for he relates, that the Family of *La Cerda* was restor'd to the Right of the Kingdom, whence the King of *Castile* deriv'd his pedigree by the Mother's side. Now *Doleman*, dost thou not see, that the Family of *La Cerda*, whom thou affirmest, to be the true Heirs of the Kingdom, possess it still, and that the Tyranny of thy *Sancius*, was not lasting nor Successful. For the most just God, when he visits the sins of Fathers, upon their Children, does perhaps debarr, one or two degrees of them from the Succession, and a while after, when his Anger is appeased, he restores them again. But among all these examples, what can *Doleman* bring, that was the deed of the people or *Common-wealth*. 'Twas plain force and violence, both in *Sancius* and *Henry* II. Neither did they gain the Throne, by the consent of the States, but by War.

[a] Cap. x. lib. 8. de rebus Hisp.

He brings for an example, *Beatrix*, Daughter of *Ferdinand*, and Heiress of *Portugal*, who was rejected by the States of *Portugal* from her Lawful Succession in that Kingdom. Let the impartial Reader judge, how this instance suites with *Doleman*'s design. *Ferdinand* the Father of *Beatrix* and King of *Portugal*, fell passionately in love with *Eleonor de Coignie*, the Wife of *Laurence de Coignie*. And tho' *Eleonor* had liv'd in great Conjugal affection with her Husband Five years, yet *Ferdinand* took her to himself against her will, and drove away her Husband *Laurence*. She on her knees with tears complain'd of the injury, and deprecated it, but in vain. So *Ferdinand* by violence having obtain'd his desire, had this *Beatrix* by *Eleonor*, who was another mans Wife. This foul deed displeas'd all the people, and especially the Citizens of *Lisbon*, and *Ferdinand* incurr'd the hatred and displeasure of all. Nevertheless he was so fond of *Beatrix*, that having no other Children, he Married her to the King of *Castile*, promising for her Dowry the Succession of the Kingdom of *Portugal*. But after his death the Nobility and People of *Portugal*, would rather have his Brother *John* to reign over them tho' a Bastard, than his Daughter, who was also Spurious, and who was

His Sixth example in Beatrix *Heiress of* Portugal *is false.*

begotten in Adultery. So as they ſaid, of two Baſtards, they would preferr rather the Male than the Female, and him that was begotten in Fornication, before her who was an Adulterous Baſtard. *Laurence de Coignie* alſo ſurviv'd King *Ferdinand*, and after his death endeavour'd to get back his own Wife, untill he was forc'd to deſiſt for fear of the King of *Caſtile*'s reſentments. *John Froiſſard* who was the moſt accurate writer of that Age, in which he himſelf alſo liv'd, gives us all the particulars of that Hiſtory. And any man who reads it may ſoon be convinc'd, that *Beatrix* was not Lawful Heir of *Portugal*, but as being begotten in Adultery, was juſtly rejected by the Great men and people, from the Succeſſion in the Kingdom. Neither does *Mariana* himſelf diſguiſe the matter. For he affirms that after the death of *Ferdinand*, *Beatrix* his Daughter was declar'd, by the common voice of the people of *Portugal* who had that matter under conſideration, to be illegitimate, and begotten *ex illegitimo thoro*. So this example does *Doleman* no ſervice, nay it confirms my former aſſertion, that the Right of Election belongs to the people, when the whole Royal progeny fails, to chuſe whom they think fitteſt to govern them, but otherwiſe they have no ſuch privilege.

Chap. 27. lib. 3.

Two examples of changing the Succeſſion in France.

I find two examples in *France* of the Succeſſions being chang'd, one in *Pepin* and another in *Hugh Capet*: But the controverſy is not ſo much concerning the *Fact*, as the *Right* by which it was done. For if thoſe *Facts* be declar'd *Rightful*, or to give *Right*, no man is ſafe, either in the Succeſſions in Kingdoms, or in the Succeſſions of private Perſons. But from *Hugh Capet*, the Succeſſion in the Kingdom of *France*, has remain'd inviolably in his Heirs, now above Six Hundred years; And 'tis certain that that Tract of time, nay leſs, to wit 300 years, is enough for Preſcription, whether as to a Kingdom or Country, even from the Sacred Hiſtory, particularly in that diſpute between *Jephthah* the Captain of the Hoſt of *Iſrael*, and the King of the *Ammonites*.

Judg. xi.

The Caſe of St. Lewis's *preferring his fourth Son.*

As to what he ſays of *Lewis* the *Pious*, that he preferr'd his fourth Son to his three Elder Sons, perhaps was not without reaſon, ſeeing his three Elder Sons, had publickly Depos'd their Father, and ſhut him up in a Monaſtery. This *Lewis* the *Saint* had firſt made a diviſion of his Inheritance leaving the *Empire* to *Lotharius*, which was due to him as the firſt Born, together with *Italy*, and to *Lewis* his ſecond Son, he left *Bavaria*, which at that time comprehended *Burgundy*, *Provence* and *Dauphine*. To *Pepin Aquitain*, and to *Charles* who was call'd the *Bald*, *France*. So by this Partition with his Brother, *Charles* the *Bald* enjoy'd *France*, who alſo did Succeed to his Brother *Lewis*, who left no Heirs Male, in his ſhare, as he did to *Lotharius* in the Empire, and at laſt to *Pepin*, without any oppoſition. There were examples in thoſe Ages both in *France* and *Spain*, of Parents, who divided their Kingdoms among their Children. *Clovis* the firſt Chriſtian King of *France*, divided the Kingdom of *France* into four parts, *Paris*, *Orleans*, *Soiſſons* and *Arles*, and left a part to each Son. His Son *Clotaire* follow'd his example, and yet all the four Kingdoms came to be reunited under *Clotaire* II. Afterwards under *Charles* the *Great*, and *Lewis* the *Pious*, the Kingdom was divided among his Sons. So great commotions enſued the Death of King *Sancius*, because of the diviſion he had made of the Kingdoms of *Caſtile* and *Leon*, among his four Sons, about the year of God 1035. And after the Death of *Ferdinand* King of *Leon* and *Caſtile*, who out of a concern for his three Sons, divided the Kingdom into three parts *A. D.* 1067. but, as *Mariana* ſays, that Deed

Great miſchiefs attend the dividing of Kingdoms.

of

of *Ferdinand*, turn'd to the unspeakable prejudice of Christendom. But after Ages, growing wiser by such examples, abhorr'd the dividing of a Kingdom. I return to *France*.

To *Charles the bald* did Succeed *Lewis* the *Stammerer*, who dyed in the second year of his Reign, leaving his Wife big with Child, who brought forth *Charles* called the *Simple*. *Lewis* by his last Will, left *Eudon* or *Otho* Count of *Paris* his Tutor; but the two Bastard Sons of *Lewis* the *Stammerer*, *Lewis* and *Carloman*, claiming before the Estates of the Kingdom, to be preferr'd in the Guardianship of the young King, before *Otho*, they obtain'd it, and divided the Administration of the Kingdom between them. The meaner writers of the History of *France* err'd in reckoning them Kings. But *Serres* a most learned Antiquary, and a most Sage enquirer into the affairs of *France*, says that neither of those two, nor *Lewis* the Son of *Carloman*, nor *Charles le grosse*, the Emperour, nor *Eudo* who Succeeded him, were Kings, but only Regents. And that the Regency of the two Brothers was short, being only of two years Duration, and *Charles* the *Bardy*'s nine, till he being commanded to lay down the Regency, *Eudo*, according to the last Will of *Lewis*, got the Guardianship of the young King again, and Administer'd the Government, untill the Twenty Second year of *Charles* the *Simple*'s Age, at which time he restor'd it again to the true Heir. *Serres* says, that all these were only *Regents*, tho' as I said before, they were Crown'd. For in those days, they were Crown'd only in the name of their Pupil, as they Sway'd the Scepter and Administer'd the Government in his name; just as Governours, which were only Hereditary Administrators of Provinces, were believ'd afterwards by most People to be Possessors. To *Charles* the *Simple* Succeeded his Son *Lewis* the *Ultramarine*, to him again his Son *Lotharius*, to *Lotharius* his Son *Lewis* V. who after one years Reign, dying without Children, left the Kingdom to his Uncle *Charles* of *Lorrain*; but *Hugh Capet* took possession of the Kingdom, not indeed by Right, but by Force, whose Posterity nevertheless have enjoy'd it, so that the next in Blood ever Succeeded to his Deceas'd Predecessor, for almost Seven Hundred years together, with great Success even to this day. And it is impossible to speak of any thing that's so grievous in *France*, as the overthrowing that Hereditary Succession.

Let the words of the Orator of the Estates of *France*, when they sent a Renunciation of their Allegiance, to *Charles* of *Lorrain*, be consider'd. *The Kingdom of* France *is thine*, Charles, *by Law and Right, but thou hast render'd thy self unworthy of it, because thou hast gone into an Alliance with* Germany, *and hast Learned their manners, who are our old Enemies.* Is not this an example of the Subversion of Right by *Violence*, when the Kingdom which belong'd to *Charles* of *Lorrain*, was, against *Right*, given to *Hugh Capet*? Some think, that this dispute was ended by the Subsequent Marriage of *Philip* I. who was the Fourth King from *Hugh Capet*, with the Daughter of *Baldwin* Earl of *Flanders*, who was all that remain'd of the Off-spring of *Charles* the *Great*. But I own those two changes in the Succession in *France*. For the other examples, which this trifler brings, they are Impertinent. For tho' King *Robert* preferr'd his second Son *Henry* to *Robert* his first-born, and made him to be Crown'd in his own Life-time, because he thought him fitter for Government than *Robert*, whom he perceiv'd to be a Simple man, fearing that his weakness might give occasion of Innovations; yet all the Estates of *France* said that it was an example

of

of the worſt Conſequence, and directly oppoſite to the Ancient cuſtoms of *France* to preferr the Younger to the Elder, in the Succeſſion. And after the death of King *Robert*, they took Arms againſt *Henry*; for not only the Queen their Mother, but moſt of the Nobility, eſpous'd the Right of *Robert*, the firſt Born. And the Armies of both the Brothers were ready to Engage, had not *Robert*, whom his Father not without reaſon reckon'd to be a weak man, prevented it, and told his Friends, that he would not be the occaſion of ſhedding ſo much Blood, and that he was ſatisfied with his Father's Sentence, by which he had left him *Burgundy*. So that affair had an end put to it by Treaty. Neither can *Doleman*, bring any thing in this caſe, that was done by the Eſtates, or any National Deed, nay on the contrary *Robert* was rather excited by the Publick advice, to recover by Force the Kingdom out of the hands of his younger Brother *Henry*.

Nothing can be more groundleſs than what *Doleman*, adds of *Lewis* VI. and *Charles* VIII. that the people of *France* intended to Diſinherit them. For the People never had that Power, nor do I read that they had any ſuch deſign. 'Twas only the Purpoſe or Judgment of the Father's of thoſe Kings.

Doleman's *examples from* England *examin'd.*

We come now to the Kings of *England*, and this *Sophiſter* who leaves no ſtone unturn'd, rummages firſt the Kings of the *Engliſh Saxons*: Tho' the truth is, during the times of the *Engliſh Saxons* the form of the Monarchy was not well fix'd, nor is the Hiſtory of it very certain or to be depended on. And firſt he ſays, that *Bitricus*'s Heirs were driven out (for he cannot ſay *Bitricus* himſelf was) by *Egbert*, notwithſtanding, as he ſays, that *Egbert* was not the Lawful Heir. Yet how does this appear? For the whole progeny of the *Heptarchick* Kings is confus'd and the Hiſtory lame. But I wou'd know of *Doleman*, who was the Father of this *Bitricus*? Who was his Grandfather? How got he into the Throne of the *Eaſt Saxons*? If *Holingſhead* may be believ'd, all thoſe things are full of uncertainty. For no Hiſtorian gives any account of *Bitricus*'s Kindred, nor who was his Father, Grandfather or Great Grandfather. *Holingſhead* ſays one thing, that whereas *Bitricus* had ſuſpicion of *Egbert* as being nearer to the Succeſſion, he forc'd him into baniſhment, and that he never return'd to his Country while *Bitricus* liv'd. At laſt after *Bitricus*'s death, he was receiv'd by all, as the true Heir of the Kingdom. Can *Doleman* tell, who in that *Saxon* Kingdom, was nearer in Blood than he? But he ſays, that the progeny of *Bitricus*, which had a Right to the Kingdom before *Egbert*, were excluded. But I ask him, who were they that were excluded from the Succeſſion? were they Sons? But I do not read that *Bitricus* had Sons. Were they Grandſons or Collaterals? But *Doleman* paſſes all of them, over, without ſo much as naming one of them. But he who puts off all modeſty, muſt needs be very impudent

Bitricus.

Egbert.

The Example of Bitricus *confuted.*

Holinſhed Chap. 17. Book 6 *Hiſt. of* England.

This Author ſays, that *Athelſtan* Baſtard Son to *Edward* the Elder, Succeeded him, his two Legitimate Sons being paſſ'd by. But the neceſſity of War with the *Danes*, forc'd them to it. Neither were thoſe Wars, which the *Engliſh* had then with the *Danes*, leſs, than the Wars, which the *Spaniards* were engag'd in againſt the *Arabians*; And among theſe, when the King died, leaving only young Children to Succeed, the next in Blood, if he was a man of Courage, did now and then, and for ſome time Succeed. Which was alſo done in *France*, and was moſt

The example of Edward *the Elder conſider'd.*

moſt commonly practis'd, among all the *Northern Nations*. But after *Athelſtane*'s Death, who Reign'd only for Life, *Edmund* the Son and true Heir of *Edward* did Succeed, and he Leaving Infants, his Brother *Eldred* Succeeded him. Theſe Examples are near a-kin, to what we Read obtain'd among our *Ancient Scots* by a Law, that is, that the Lawful Heir being under Age, his next Kinſman Reign'd during Life, *Vicario nomine*. As I alſo think it us'd to be, among other greater Nations, as I obſerv'd before, from the *Annals* of *France* and *Spain*. But I return to *England*. *Eldred* being Dead, *Edwin* the Son of King *Edmund*, and rightful Heir of the Kingdom, Succeeded. *Doleman* according to his Laudable cuſtom ſays, that he was depos'd, which yet is Falſe. 'Truly *Edwin* having abandon'd himſelf to Lewdneſs, and perpetrated the moſt abominable Crimes, which made him be abhorr'd and forſaken by all his Friends, he Died after Four Years Reign, leaving no Children behind him. But that ever he was depos'd, or that any thing was done againſt him, by the Publick advice or Counſel of the Kingdom, our *Jeſuite* ſhall never be able to make appear. *Edgar* who was his Brother Succeeded him, and he left the Kingdom to his Children, and Grand-Children, tho' in the mean while they were ſadly haraſs'd by *Sweno* and *Canutus*, who poſſeſs'd themſelves of the Kingdom for a conſiderable time, by Force and Injuſtice.

The King's Children being under age, the next in Blood did ſometimes reign during life.

Edmund Ironſide being dead, *Canutus* being jealous of the Son of *Edmund*, as being the true Heir of the Kingdom, took care to have him baniſh'd the Kingdom. But *Canutus* and his Son *Hardi-Canutus* being dead, *Edward* the Brother of *Edmund* got the Kingdom, and recall'd *Edward* the Son of his Elder Brother *Edmund*, and would have yielded the Kingdom to him as the Rightful and true Heir of it; But this younger *Edward* emulating his Uncles Piety, refus'd it, which turn'd to the hurt of both. For *Edward* the younger dying within leſs than a year, and King *Edward* ſoon after, *William* of *Normandy*, who being a Baſtard, had not ſo much as a good Title to *Normandy*, ſeiz'd the Kingdom of *England*, by Force and Arms. And he omited no hoſtilities, that uſe to be committed on a conquer'd Nation. But to put an end to this Hiſtory of fifty years, *Doleman* ſhall not find in all that time, that any thing was Tranſacted, by any publick Counſel, or Deed, or as he words it, by the *Commonwealth*, but only that the *State*, being oppreſs'd by the arm'd force of the *Danes*, became a prey to any body that cou'd ſeize it.

So leaving the Hiſtory of the *Engliſh-Saxons*, which is lame and maim'd, let's come to the *Conquerour*; the *Series* of whoſe Succeſſion *Doleman* affirms falſely, has been often interrupted, and the true Heir often excluded. Firſt ſays he, in *William Rufus* who Succeeded his Father in the Kingdom, *Robert* the *firſt-born*, being excluded. But *Doleman* might have remembred, that the Kingdom of *England*, was the Conqueſt of *William* the *Conquerour*, and that he cou'd lawfully have diſpos'd of it by his Will, as he alſo did. For as well by the Law of *France*, whence the *Conquerour* came, as by that of *England* it ſelf, any man can by his Will or Teſtament, diſpoſe of his *Conqueſts*, but not of his Inheritance. So the *Conquerour*, left to his Son *Robert* the Inheritance of *Normandy* intire. But he made his Will concerning the Conqueſt, and by it appointed *Rufus* to be his Succeſſor. The Father indeed might have diſinherited his Son *Robert* even of *Normandy*, for his own demerits, and truly every body reckon'd, that he deſerv'd to have been diſinherit-

What Doleman *ſays of the ſeries of the Conquerours Succeſſion being already broken is falſe.*

ed; he, I ſay, who took arms againſt his Father, ſtirr'd up the King of *France* againſt him, and fought twice openly againſt him; nay which is more, having with a Spear wounded his Father in his Arm he beat him down from his Horſe. All which unnatural crimes notwithſtanding, his Father left him the Dukedom of *Normandy*, which he knew belong'd to him in the right of his Anceſtours. His Conqueſt he left to *Rufus*, and he failing, to *Henry*, which as I ſaid before, he cou'd do, both by the Laws of *England* and *France*. All theſe things were done by the advice of *Lan-Franc*, *Arch-Biſhop of Canterbury*, who was then reputed a moſt Learned man in Law, and moſt Pious, who cou'd never have given his conſent to ſuch a deed, had he not been perſwaded, that it was lawful, or according to Law. But I purpoſe to ſpeak more fully, of the Succeſſion of the *Conquerour*, in my Second Book.

Henry I. the Son of the *Conquerour*, was the firſt that made the Kingdom of *England*, as it wou'd ſeem, Hereditary, having made all the great Men, of the Kingdom ſwear, that they ſhould be Faithful to his Daughter *Maud*, and to her Heirs. As for *Stephen*, he pretended to ſome Right of Succeſſion, as being the Conquerours Grand-Son by his Daughter *Adela*; whereas his Rival *Henry* II. was only the *Conquerour*'s great Grand-Son. But at laſt that affair was ended by a Treaty, by which *Stephen* quitted the Kingdom in favour of the true Heir, reſerving only to himſelf the profits of it, during his own Life. And ſo the true Succeſſion by Blood, was continued by *Doleman*'s own Confeſſion, untill we come to King *John*, who by a moſt horrid Crime, as is reported, Murder'd *Arthur*, who was deſign'd the Succeſſor in the Kingdom. But *Arthur* and his Siſter being kill'd, *John* was then the true Heir of the Kingdom of *England*: Neither is it juſt that any man ſhou'd expiate another Man's Crimes, by Suffering for them himſelf. For ſhou'd we Condemn the Poſterity of all the Kings, whoſe Anceſtours by ſome Crime or other, have come to the Kingdom, and ſay that they have got the Kingdom unjuſtly, we ſhou'd overturn the Families of many Kings in *Europe*. *Alphonſus* killed his Brother and Soveraign *Froila*, and yet Succeeded him. *Alphonſus* King of *Spain*, Sirnam'd the *Great*, after he had cauſed the Eyes of his four Brothers, *Froila*, *Nunnus*, *Veremund* and *Odoarus* to be put out, condemned them to perpetual impriſonment [a]. *Sancius Garcias* Prince of *Caſtile*, rebell'd againſt his Father *Sancius Fernandus*, and brought in the *Moors* to his aſſiſtance, by whom alſo the Father was kill'd, nevertheleſs that Son Succeeded him. [b]. *Sancius Garcias* caus'd his Mother to be poiſon'd, and yet his off-ſpring reigns to this day [c]. *Alphonſus*, who had been expell'd by his Brother *Sancius*, *Sancius* being kill'd, was obliged to clear himſelf of his death; for there were violent preſumptions of his being concern'd in it, yet he took care to have his other Brother *Garcias*, who had been priſoner a long time, put to death [a]. *Peter* King of *Caſtile* kill'd, beſides his Wife, his own three Brothers. *Henry* I. his own Brother *Tellius*, and his other Brother *Peter*, who was alſo his Soveraign, and King of *Caſtile* he killed with his own hand. *Lewis* XI. killed *Charles* Duke of *Normandy*, that he might annex that Dutchy to his own Kingdom. Or if you deſire more ancient examples in *France*, *Gundebal* Duke and King of *Burgundy* beheaded his Brother *Chilperick*, and after he had beſieged his other Brother *Godemarus*, he burnt his Houſe and him in it. *Chilperick* I. kill'd his two Sons *Moroveus* and *Clodoveus*. *Theodorick* his Brother *Theodebert*: So *Lewis* tho' ſirnam'd the *Pious*

[a] Mariana lib. 17. cap. 17.

[b] Idem lib. 8. cap.

[c] Idem lib. 8. cap. ii.

Many Kings were ſtain'd with ſome Crimes.

[a] Mariana. lib. 9. cap. 15.

Pious, Sentenc'd *Bernard*, the Son of his Brother *Pepin*, to imprisonment during life, after his eyes were put out.

These and such like examples, confirm that old saying of the Poet *Regia res scelus est*——And yet none of those Kings were Depos'd, for these Crimes, tho' we read that, by the just Judgment of God, they did not escape punishment. For tho' they Sinned most heinously against God and Men, yet they were in no wise liable to men's Judgment, so as to be dispossess'd of, or thrust from their Kingdoms, by them.

King John's *faults ought not prejudice his posterity as to their right.*

But whatever *John* may be charg'd with, yet that cou'd not prejudice his Son *Henry*, or incapacitate him, from Succeeding to his Uncle *Richard*, or to his Grand-father *Henry* II. For 'tis the Prerogative of the Blood Royal, in the first degree of Succession, that it neither considers the faults of Parents, Proscription, nor the Heir's being born in a Foreign Country, as shall be more fully treated on in our second part. From this *John*, in the Line of the Kings of *England* there is no gap, no Interruption or broken *Series* to be met with, even to this most August Queen that now Reigns.

Doleman writes, that *Arthur* Duke of *Britanny* had two Sisters, and cites *Stow* and *William* of *Westminster* for his Authors. As for *Stow*, seeing he is so late a writer, and even in our own Age, he cannot be a Competent witness to confirm an Affair of that consequence, and so Ancient. *William* of *Westminster* says indeed there were two Sisters, but he does not give us the name of the Second, nor tell us to whom she was Marry'd, or when she dyed. 'Tis probable if there was such a one, that she either dyed Young, or was never Marryed; and so no Argument can be brought from her, we shall treat afterwards of the Original of the Families of *York* and *Lancaster*. And now having discuss'd all the examples brought by *Doleman*, the summ is this, He has got none in *Spain*, two only in *France*, not one example in *England*, in which the true Heir was rejected from the Succession; for tho' the Right and Succession of the former Kings, was alter'd by the Conqueror, yet that Innovation, was not made by the Estates or by any Publick Consultation, but meerly by arm'd Force.

He at last concludes this whole discourse, saying, *That propinquity of Blood is of great preheminence towards the attaining of any Crown, yet it doth not so bind the Common-wealth, but it may upon just and weighty Reasons, Exclude even the lawful Heir.* But he never defines what this *Common-wealth* is, whether it be all the Estates of the Kingdom jointly, or if the greater part of them, makes the *Common-wealth*; and I leave the Candid Reader to judge, whether a meeting of Seditious people, or Tumultuous Mobb in an uproar and confusion, deserves the name and appellation of *Common-wealth*. Shou'd we judge of this business by the examples which *Doleman* brings, then the most Tumultuary Rabbles of the people, and arm'd Factions, must be adorned with the Title of the *Common-wealth*. For it was only by such meetings, that most Kings, he has given Instances of, were chosen. For example in *Sancius* the Son of *Alphonsus* the *Astrologer*, in *Edward* III. and in *Henry* IV. tho' this Author thinks the greater part of the People to be the *Common-wealth*. *But the Votes of the People are only number'd but not weighed, and the greater part carries it against the better.* But when, and where shall the greater part of the People meet? What if the rest call themselves the *Major* part, as I took notice before in *Watt Tyler*'s Rebellion? shall we Honour such meetings, with the Title of the *Common-wealth*? But had *Watt Tyler*'s Rebellion been attend-

attended with Succeſs, he had undoubtedly ſtiled himſelf the Father and Saviour of the Country, and the Prince of the *Commonwealth*; and *Doleman* wou'd have aſſerted, that whatever had been done by that mad Mobb, had been done by the *Common-wealth:* And ſo from a raſh and unadvis'd event[a], than which nothing is more uncertain, nothing is more unjuſt, Juſtice and Right are to be meaſur'd, if we make uſe of *Doleman*'s ſcales.

[a] Temerario eventu.

CHAP. XXII.

A Confutation of Doleman's *IX. Chapter* of the things that ought to be reſpected, in admitting or rejecting the Succeſſion, *and a detection of that Counterfeit Author's Impiety.*

Doleman that he may conclude his Diſcourſe, in the whole Firſt Part of his Book, makes a recapitulation of his former Chapters, *That it's Lawful for the Commonwealth, to alter or reject the rights of Succeſſion and Blood, becauſe that has been ſo often done, and with good Succeſs by Commonwealths.* He hugs himſelf mightily in his proofs of this propoſition, and this is not to be wondred at.

Doleman *admires himſelf.*

Ipſa ſibi plaudat crepitante ciconia roſtro.

So let the Stork with chattering Bill
Applaud his own Addreſs and skill.

But a Queſtion being put, by one of the *Actors* in his Comical Scene, *Whether the thing in it ſelf be lawful or not? and ſeeing it is not to be done but for juſt and weighty cauſes, what theſe juſt and weighty cauſes are, which upon a fair Trial, might induce the Commonwealth, to reject the Rights of Succeſſion?* And firſt that *Doleman* may have a more ſpacious field, he pretends an Axiome of Law, *That he who is judge of the thing it ſelf* or Fact, *is alſo Judge of the cauſe.* But in this he is moſt ſhameleſly out. For as to the Lawfulneſs of the thing, that muſt be ſearch'd out by the Laws. It belongs to the Judge to inquire into the Fact, if it was done according to the Laws, or if it ought or cou'd have been Lawfully done. Neither is any judge allow'd that power to abuſe Right, and Laws; nor is he intruſted with the power of Judicature, untill he ſwears that he ſhall judge according to the Laws. Law therefore is the common rule to all, to which all our actions are directed. The Judge is only the Miniſter of the Law, who gives decrees and ſentences, according to the preſcript of the Law, and not according to his own Will and Pleaſure. But I want to know by what Right or Law, can the Judge ſeclude a King from his Patrimony, or a Succeſſor from his hereditary Right? The ſtreſs of the cauſe or *the chiefeſt cauſe*, depends on his Religion, ſays he, but with this addition, that the Prince govern according to the laws, if there be Laws, or at leaſt according to the ancient cuſtoms of the Kingdom. But

The Lawfulneſs of any fact ought to be tryed by the Laws and not by Examples.

But this man will have the *præsumptio juris*, the presumption of a Law to be as good as a Law, and perhaps had he brought so much as a presumption of Law, he had said something. 'Tis presumed, says he, in favour of the people (to whom he always gives the appellation of the *Commonwealth*) for neither can they err, says he, tho' they command contrary things, so that what they command is just this day, but unjust next day if they forbid it; Yet all are bound in conscience to obey both commands. So the Conscience, fluctuating hither and thither, can never be able to find out any certainty in judgment. And he flatters himself, that he has sufficiently prov'd this, by the examples of the houses of *York* and *Lancaster*. In which tho' the people commanded contrary things, and had decreed repugnant and contrary Sentences, yet obedience was necessarily to be given to both; so that what was just to day, becomes unjust to morrow, what was Lawful this day shall be a crime to morrow; consequently by *Doleman*'s Judgment, Lawful and Unlawful Just and Unjust, Light and Darkness, which are directly opposite to one another, may be made to agree. Let the candid Reader judge whether that can be true. To me these opinions or rather *opinionum ludibria*, are truly Paradoxes, and they being altogether ἀσύστατα or inconsistent, can never be allow'd of; especially as bringing in an uncertainty in Government, which is the source and Mother of all disorder, and at last also of confusion.

Doleman confounds just and unjust, calls good evil and evil good.

But this cunning Sophister, adds one qualification to his opinions, which is, *unless the people determine without lawful Authority committed to them open injustice, and offend manifestly against God, and bring danger to the Realm: In which cases every man, says he, is bound to resist the people.* And here he overturns, what he has so often before asserted, *that the people are subject to none, but that they are above Kings*, where he owns *that the people are to be resisted, if they do any thing against the Laws of God, or commit a manifest injury, or bring the Realm in danger.* And here we have a much larger field of controversy than before. For every man for his Sedition, or the Tumults he causes, pretends nothing else, but either manifest injustice, or offences against God, or the evident danger of the Realm. And the justness of that pretext depends on the event. For the prevalent faction assumes always the specious name of the Commonwealth, and that which before was Just and Lawful, is now a crime and unjust, a practice too common in *England*. That of *Lucan* is very true.

The Commands or prohibitions of the Commonwealth *when to be obey'd, and when not.*

Nulla manus belli mutato judice pura est

No side in War will innocent appear,
If to the adverse Party you give ear.

And in another place.

——Acies victum factura nocentem est.

Goodness and Title Conquering Armies yield;
He can't be innocent who lost the field.

There is no greater offence against God, nor any injury greater, than is the excluding a Successor from his Inheritance.

But if the *Commonwealth* is to be resisted as long, as *it does open injustice, or injuries, or manifestly offends God, and endangers the Realm*, I ask,

ask, what is to be thought and determin'd in our caſe? For there cannot be an inſtance of greater injuſtice, than to rob a man of his Patrimony, nor any greater offence againſt God, who has ſo often commanded, to give every one his due, to do to others as we our ſelves wou'd be done by; and ſo highly commends Juſtice, upon which both the Law and the Prophets do hang; and engages himſelf to Revenge all injuſtice, and unrighteouſneſs of Men. Nor can any greater danger threaten a Commonwealth, than the excluſion of the Lawful Heir, from his Right, and the putting another, at the Pleaſure and Diſcretion of the giddy headed Tumultuating people, or by the crime of ſome powerful and deceitful Grandee, in the room of the true Heir. In that caſe therefore, *Doleman* himſelf being judge, it is Lawful to reſiſt either the commands or prohibitions of the *Commonwealth*.

The unreaſonableneſs of giving the appellation of Commonwealth *to the* giddy multitude.

I paſs that queſtion by, whether or no the Meetings, Conventions and Diſſolvings of the Seditious People, or Tumultuating Mobb, deſerve to be honour'd with ſo honeſt a name, as that of the *Commonwealth* is? So that Multitude of the wild brain'd or delirous people, who dethron'd *Edward* II. and alſo *Richard* II. can no more be own'd to be the *Commonwealth*, by any good man, than that Rebellion of *Watt Tyler* is to be reckon'd the deed of the *Commonwealth*, tho' he was back'd with a hundred thouſand arm'd men, and ſaid that within three days, all the Laws of *England* ſhould be from his mouth. Neither is the greater part of the people always the better part, for that common ſaying that I brought already is true, *Major pars vincit meliorem*, the greater party overcomes the better. And again *Sententiæ multitudinis non ponderantur ſed numerantur*, the Votes of the people are not weigh'd, but reckon'd by numbers. And whatever party gets the better of t'other, declares it ſelf the greater. And this queſtion, which party is greater, which the leſs, cannot be brought to a ſcrutiny or calculation. This at leaſt is evident from that propoſition of *Doleman* that I take notice of here, that there ought to be ſome judge of the people, who is to judge whether any thing be committed againſt the *Laws of God*, any *open unjuſtice*, or if *they endanger the Commonwealth*, unleſs he will make every man judge, and to give Sentence at his pleaſure. And ſo while he makes the people judge the King, another to judge the people, there can be no *laſt appeal*: here will be *progreſſus in infinitum*, and that kind of infinity, and whatever tends thereunto, is in all Sciences, to be avoided.

But what he farther adds is yet of more weight and conſequence. For that ſubtile Knave ſays, *Seeing Kings were only appointed for the Commonwealth, and it's profit, he is moſt to be allow'd and to be preferr'd to the Succeſſion, tho' farther off by deſcent, who is moſt likely to defend well the Realm, and benefit moſt the Subjects, rejecting others who are leſs fit to do thoſe things.* Than which poſition I find nothing more abſurd. For beſides, that he reckons of Election only to be minded, in ſetting a new King on the Throne, enquiry muſt be made in chuſing the new King, who is moſt likely to advance the welfare of his Country. But that probability or likehood, how often does it diſappoint, and mock the Eyes of the beholders; whilſt they embrace things doubtful for certainties, and falſehoods, for truths: And 'tis the part of Madmen, to ſhake the Stability of a State, for ſome appearance or ſhadow of profit, which they only Dream of, and nothing can be more raſh and unadvis'd, than ſuch a Practice. No regard is had to Right or Juſtice. And if the King of *Spain*, who has not ſo much as the pretence of a Title or Claim to *England*, can benefit *England* more than

than the most *Serene King*, who has an undoubted Right to it, the *Spaniard* must, by *Doleman*'s scheme, be preferr'd to him. But among Christians, a chief regard is to be had to what is Right and Honest, what is Pious and Just, in all their Deliberations and Consults; and after that point is once settled, then they may consider of what is profitable and Beneficial. For should we once grant to *Doleman*, that *Benefit* to the Realm is chiefly to be minded, then a Woman could not Succeed, because a State may be better Govern'd by a Man than by a Woman. Nor an Infant, nor one under Age; seeing they have not so much Judgment, as to be intrusted with the Administration of their own affairs. 'Twill be more profitable to look out for one who is much more remote, than to leave any Man's own Estate to be govern'd by himself, and this from Kingdoms will come to be a Precedent for other lesser Families. For by the same reason, if any be not a good Husband in his own affairs, the Administration of them must strait be taken from him, and given to one of more Wisdom and Experience than he. But this point shall be more fully Canvass'd in my Second part: Moreover what he adds of a *Turk* or a *Moor*'s being Successor, he brings such Examples the better to cover his design; for granting that they ought to be Excluded, he inferrs also by necessary Consequence, that *Hereticks* must be serv'd the same Sauce, and all this that he may Exclude the most Serene King. Notwithstanding that by the Canon Law, what belongs to *Jews* or *Saracens* ought not to be taken from them.

Christians are bound to have a chief regard to right and justice before convenience or profit.

Doleman's *impiety against Kings* detected.

At length that he may, after all his Skirmishings, come to the Causes of Dethroning Kings, or rejecting their Successors, he gathers all these reasons from the Triple Ornaments of the Kings of *France*, on the day of their Coronation. *For the King of France*, says he, *in his Coronation is new apparelled three times in one Day, once as a Priest, and then as a Judge, and last as a King Armed.* But I think that nothing cou'd have been devis'd more Foolish or Ridiculous, than that first Vestment, Seeing the Offices of the Priest and of the King, are quite different, nor can *Doleman* find out by what means they can be reconciled one to the other, as far as I know; unless perhaps it be, that sometimes all Christians, are in Scripture called *Priests*. But this man finds these *Priest-hoods* in *Aristotle* and *Plutarch*, and will have them called Priests, from their Dayly Sacrificing; that under that pretext, he may cunningly bring in the Sacrifice of the *Mass*. These Vestments, says *Doleman*, *Signify the three things which are chiefly required in a King, First Religion, then Justice, then Manhood and Chivalry.* These things might be endured, was he contented only *requisitione* or when they are seeking out for a King; yet still so that I think the true Heir ought to Succeed, tho' he be neither of the Order of *Minims*, *Minorites*, or even of the *Jesuites*; or tho' he never sate on the Bench, nor was in the Camp: Seeing many of the Kings not only of *Israel*, but of *Judah* also Succeeded tho' they were Idolaters; few Cæsars or Kings did the Office of a Judge themselves. 'Twas enough if they appointed Judges to hear and decide Causes.

[a] Canon si de rebus 23. quest 5.

The three-fold apparel of the King of France *what is meant by it.*

The Kings also are to be prais'd, who took great care to order Military affairs, tho' they themselves never went in Person to the Wars. *Charles* V. King of *France*, who was deservedly called the *Wise*, drove the *English* almost out of all *France*, tho' he himself never appeared in the Camp, nor ever saw an Army in Battle array, and only employ'd himself in his Closet, in writing Letters, as *Edward* III. a great Warriour witness'd of him. These three things, are nevertheless the great Ornaments of

Some renown'd Emperours and Kings never sate on a Bench or saw a Camp.

of Princes ; but yet not to be ſo far conſider'd, that unleſs one ſignaliſes himſelf extraordinarily for remarkable acts of Juſtice and Valour, he muſt ſtraight be ſtript of his Patrimony. 'Tis one thing to require theſe things as Ornaments in a King, but another thing to put him from his right, unleſs he is ſo Bedeck'd and Adorn'd. 'Tis true that men ought to be concern'd chiefly for Religion, and the Eternal Salvation of their Souls, and that ſome Reverence for Religion, and the Worſhip of God, was by Nature implanted in Men in all Nations, and that all men ought to direct all their Actions and Cogitations to the worſhip of God alone, and conſequently, the Adoration of Conſecrated Bread, and the Religious Worſhip of Saints and Angels, is Condemn'd, by *Doleman* as well as by us: Nor can it be reckon'd Religion, which conſiſts in ſuch devis'd Sacrifices. For God requires no ſuch Sacrifices at our hands, nor did he any way inſtitute theſe Sacrificing Prieſts; much leſs did he ordain Kings to be ſuch Prieſts. Neither is that *Formula* of *Juſtinian*'s Oath, in which, they Swear by the *Bleſſed Virgin Mary*, and the *Saints*, to be approv'd of by Chriſtians; ſeeing we are expreſly forbidden by the word of God, to Swear by any other, than by the Lord God Almighty, that Honour and Worſhip being due to him only, who is καρδιογνώστης, that is, who knows and ſearches the heart.

The Jeſuites Idolatry reprov'd.

The Compariſon between an Heir apparent *and a* Spouſe betrothed *does not hold.*

He compares Succeſſion, or an *Heir apparent unto a Spouſe betrothed, but not Marryed.* But this Ignorant man, it ſeems, knows not that if the Parties have Sworn, the Marriage cannot be diſſolv'd: For in that caſe it wou'd ſeem, that God had joyn'd them together, by an Oath. In like manner the Subjects at the Princes Coronation, take the Oath of Allegiance and Fidelity, to him and to his Heirs. For all his Heirs are reckon'd to be Crown'd, in and with him, by that Oath; neither can they who have ſworn, be abſolv'd from the Obligation of it before God, by any Diſpenſation of the Jeſuites, nor of the Pope himſelf. And what he ſays of the *Corinthians* is abſolutely falſe; for the Apoſtle, makes not the difference of Religion, the cauſe of departing, but the Parties refuſing Cohabitation.

1 Cor. vii.

'Tis falſe that Religion is to be judged of by every man's conſcience.

But nothing is more Monſtrouſly abſurd than what he ſays of Religion, *that it is to be Judged of according to every Man's Opinion*, or as he calls it *Conſcience, and that he who preferrs him to be King, that is of a different Religion, tho' his Religion was never ſo true, yet becauſe it is againſt his Opinion, Sins Damnably in the Sight of God*, to uſe his own words, *and againſt men:* This brings to my mind the gloſs in the Canon Law, which by ſeveral reaſons defends, that the Jews had Sinned mortally, unleſs they had Crucifyed our Bleſſed Saviour Chriſt, of which this is a principal one, becauſe otherwiſe, they had Acted againſt their Conſcience; and if this be true, then our Lord Chriſt who pray'd *for forgiveneſs to them, becauſe they knew not what they did*, Pray'd amiſs. O horrid Blaſphemy! For had it been a Sin not to have Crucified him, they were undoubtedly to be commended, for having Crucified him. To this agrees the Doctrine of the Jeſuites, who take their meaſures as to the truth of Religion, from every Man's opinion, and not from the word of God. The ſhorteſt ſighted man, may eaſily diſcern the tendency of ſuch Doctrines, which is that their Advocate *Doleman* may animate all them of his Faction, to oppoſe and hinder the Succeſſion of the moſt Serene King, and that under pretext of Conſcience, nay to raiſe and inflame Tumults and Seditions, by which he wiſhes above all things that the Kingdom may be conſum'd and periſh, after it comes to be embroil'd with inteſtine Wars, and all things turn'd topſy turvy, in Caſe the moſt Serene King (whom he

Can. 1. diſtinct. 8.

calls

calls an Infidel and Heretick) be admitted to Succeed. But was this rule of *Doleman* Strictly obſerv'd, there ſhou'd not be one Born for ſome Ages, that cou'd be made King by the whole Common-wealth. He muſt be a very Singular man, that ſhall be able to pleaſe all men in Religion, unleſs he be ſuch an one as has no Religion. But I heartily recommend to all good men, who have a Senſe of Religion, and Juſtice to conſider carefully that parable of our Saviour in St. *Luke* chap. xix. In which, *a Certain Nobleman went into a far Country, to receive for himſelf a Kingdom. But his Citizens hated him, and ſent a Meſſage after him, ſaying, we will not have this man to Reign over us. And it came to paſs that when he was returned, having receiv'd the Kingdom, he commanded theſe Servants to be called unto him, to whom he had given his Money, to be uſed in the way of Trade.* And after he had appointed rewards and puniſhments, Suitable to their Behaviour, he adds, *but thoſe mine Enemies, who would not that I ſhould Reign over them, bring hither, and Slay them before me.* In which Parable theſe things are remarkable. Firſt, This Nobleman is called *Vir multæ cognationis* by the Syriac verſion, and all Commentators agree, that by his Birth he was King over his People; and that the Kingdom was his by Succeſſion. For he could not have been King by Election, ſeeing it's plain from the Text, that his Citizens, over whom he had right to Reign, rejected him as one they hated; and would not that he ſhould Reign over them. Secondly his having gone to a far Country, to receive his Kingdom, excludes that Exception of not being Born in the Kingdom. Thirdly, that having receiv'd the Kingdom, he commanded his enemies to be Slain, which puniſhment if this delinquent eſcapes in this world, will overtake him in the next, for God, who is the juſt avenger of all unrighteouſneſs of men, will not ſuffer them to go unpuniſh'd; becauſe they have rejected him, to whom God has by the Lawful call of Succeſſion, given a true right to the Kingdom. But ſome may ſay, that arguments are not to be drawn from Parables. I know that theſe things are ſaid parabolically, yet ſo, as from the equity of the Judgment or Sentence, contain'd in the parable, our bleſſed Lord has expreſs'd, the equity of his Sentence, againſt the *Jews* and againſt *Jeruſalem*, for having rejected their King.

The Parable Luke xix. *recommended to be conſider'd on by good men.*

And now to conclude the whole firſt part of this *Dolmannean* controverſy; In ſhort this is the State of it, He proves by this Sophiſm that the Commonwealth can remove Lawfull Kings, and Succeſſors, either from their Thrones, or from the Succeſſion. They have done it ſometimes, and with Succeſs, which deed it's likely God favour'd and bleſs'd, ſeeing the event has been proſperous; therefore, the Commonwealth could do ſuch things Lawfully, nay and by Law. And whenever it pleaſes, under the colour of Religion or danger to the Commonwealth, it may thruſt both from their Right. No man of any judgment, can miſtake the tendency of ſuch reaſonings, to wit, that *Doleman*, having once loos'd all the Bonds and Ligaments of humane Society, may leave all things, to the Luſt and Rage of the impotent Multitude, and introduce Anarchy and Confuſion, which is infinitely more miſchievous, than all Tyrannies, or all the Forms of Tyranny, that ever were in the World. For if it be Lawful, to put back from his Right the next in Blood, to what purpoſe is his long diſcourſe, concerning the true Heir by Blood and the preheminence of Primogeniture or Birth-right, to whom the Kingdom belongs, by Hereditary Right? For ſhou'd we grant theſe things to *Doleman*

The State of the whole controverſy contain'd in the firſt part of Doleman's *Book.*

The tendency of Doleman's *Doctrine is to introduce* Anarchy *and confuſion.*

the Succeſſion being renounc'd, the Kingdom comes to be the gift of the Multitude, which they may beſtow on whomſoever they pleaſe, and he who gets the Multitude for him, ſhall without doubt have the Crown and Scepter.

All the Conditions that Doleman *himſelf requires in an* Heir apparent *or* Succeſſor *are to be found in the* moſt Serene King.

But God, who is infinitely wiſer than men, forbids *to follow a Multitude to do Evil* that is when they decline from what is juſt and honeſt, But that this diſguis'd *Doleman* may be convinc'd, that he has loſt all his Labour in his whole firſt Book, I ſhall contract all his Arguments into one. If this Succeſſor by Blood and Birth-right, which *Doleman* confeſſes is highly to be regarded, be ready to Swear, that he will Govern according to the Laws of the Country, that is, the Laws of *England*; if he is both able and willing to promote the welfare of the Kingdom, which is the Second thing. If he will make uſe of the ſame Councellours, which the moſt Auguſt Queen has hitherto Employ'd moſt happily, and not without the Admiration of the World; which is the Third thing. If laſtly no grievous Inconveniencies, which might endanger the Publick Peace and Tranquillity of the Kingdom, can be inferr'd from this Succeſſion, but the affairs of the Kingdom will rather be more peaceable and Proſperous, with Honour and Reputation for the future, why ſhall not the moſt Serene King be admitted to the Succeſſion in the Kingdom, after the Deceaſe of the moſt Auguſt Queen? No probable reaſon can be given, *Doleman* himſelf being Judge. But abundant Satisfaction can be given in all things which *Doleman* himſelf requires in a Succeſſion, and the Right of Succeſſion preſerv'd to him, to whom it belongs, by the Law of God, and by all the Laws of Men; and in whom no Qualification is wanting, that either *Momus* himſelf or *Doleman* upon the niceſt Trial, can require.

Many have been led into Error, being prejudiced with the opinions of the Jeſuites; but to me their Arguments, appear truly to be perfectly like Cobwebs, with which the ſillieſt Flies only are entangled; But ſuch as are ſtronger break through : For men of Judgment and ſound Reaſon carry off and expoſe before them, not only theſe Spiders Webs, but together with them, the Weavers alſo.

The End of the Firſt Book.

the Succession perhaps removed, the Kingdom comes to be the Right of the Multitude, which they may perform or withstand as they please, and be who they fear the Multitude for that, shall without doubt pray the Crown and secure.

But God, who is infinitely wiser than men, forbids to follow a Multitude to do an Evil, that is when they depart from what is just and honest. But that this disputed Doctrine may be convinced, that he pas-
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Solomon

On ye 11th July Mrs. W: came Home in a Hackny Coach about
2—6 P. M. with two Women & a Little Child, one Woman was
presented to be a Midwife, ye other was Unknown, ye Coach Man
being asked My Sister opening ye Door, was desyred to bid
Mrs Winter to be bring brought to bed of a Male Child, My Sister
asked when ye Child was borne & she said this day Seven night about
five a Clock in ye Morning. My Sister said ye Child looked a great
deal better, & she believed was borne Living Child & ye She de-
sired it was here. My Sister asked why she did not send
word to her Neighbours, as well as send for Linen from her Neighbour
Gibson without acquainting her of ye same, Mrs Winter made a slight Excuse

Concerning the SUCCESSION OF THE Kingdom of England.

THE SECOND BOOK.

CHAP. I.

Of the Jus proprium *or Municipal Law of the Kingdom of* England, *and who should by that Law be called to the Succession of that Kingdom.*

WHat has been urged in my former book, from the Law of God, the Law of Nature, and from the Law of Nations or the *jus commune*, to prove our point of Succession, may seem light to such as deal not fairly by us; who may be ready to object, that the question is chiefly, concerning the Succession of *England*, which cannot be cleared otherwise, than by the *Peculiar* or *National* Law of *England*, and by the Laws of Succession, which have been us'd and receiv'd in *England*. It may be worth the while then, to enquire what the Law of *England* appoints in such an affair, and what the Laws of Succession, among the *English* are. Jus proprium

There is a two-fold Succession, or rather two ways of Succeeding in *England*, one in Succeeding to the Crown, t'other in private Families and Estates. That no man may think this distinction to be divis'd by me, it shall first be clearly prov'd from the plainest words of the Statutes of *Edward* III. and *Henry* VIII, and afterward I shall confirm it by reasons. *Two ways of Succeeding in* England.

'Twas doubted in the twenty fifth year of the Reign of *Edward* III. whether the *Children born in the parts beyond the Sea, out of the ligeance of* England, *should be able to demand any inheritance within the same ligeance or not*, that is within the Kingdom, Territory or Jurisdiction of the King

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of *England*. The reaſon of this doubt, was a Petition, that had been preſented to the Parliament in the Eighth Year of that King's Reign, that Children born beyond Sea, might be incapacitated for an Inheritance or Succeſſion in the Kingdom, but was not at that time fully aſſented to. But ſeeing it might be doubted, whether the Children of the Kings of *England*, might be comprehended in that Statute, or rather Petition, ſo as that ſuch of them as were born beyond Sea, might be excluded from Succeeding to their Anceſtours,

The Statute of Edward iii. *concerning them that were born beyond Sea.*

Edward, *to take away all doubts and ambiguities, charged the Prelates, Earls, Barons and other wiſe men of his Council, to deliberate upon this point. All which with one aſſent, ſaid, That the Law of the Crown of* England *is, and always hath been ſuch, that the Children of the Kings of* England, *in whatſoever parts they be born, in* England, *or elſe where, be able and ought to bear the Inheritance of their Anceſtors: Which Law our ſaid Lord the King, the ſaid Prelates, Earls, Barons, and other great men, and all the Commons aſſembled in Parliament, do approve and affirm forever.*

Here the Law of Succeſſion in the Crown, is evidently diſtinguiſh'd, from the Law of Common Succeſſion, or the Succeſſion of *private men* born beyond the Sea, whoſe Succeſſion is undetermin'd or paſs'd over in Silence; but all occaſion of doubting, as to the Succeſſion of the *Crown*, is taken away; ſo as that the Crown ſhall be the inheritance of the Kings Children wherever they are born; the Statute retaining ſtill its force, againſt the Succeſſion of other Children born out of *England* or beyond Sea.

The Statute of Henry viii. *concerning the King's Succeſſion*, anno regni xxv.

Henry VIII. had a Statute enacted in the twenty fifth year of his Reign, wherein it was expreſly declar'd, that the Succeſſion in the Crown, *or the Imperial Crown and other Premiſſes, is and ſhall be to your Majeſty, and to your Heirs of your Body, lawfully begotten, firſt, to your Sons, and for default of ſuch Sons lawfully begotten*, to other Heirs, to wit *Female*, *to the moſt Serene Princeſs* Elizabeth, *and to the Heirs of her Body lawfully begotten: And for default of ſuch iſſue, then the ſaid Imperial Crown, and all other the premiſes, ſhall be in the Right Heirs of your Highneſs for ever by courſe of Inheritance, as the Crown of* England *hath been accuſtomed and ought to go.* Which Statute, all the Nobles Spiritual and Temporal, Barons and Repreſentatives of the Commons, *made or took a Corpo-*

Corporal Oath to fulfill, maintain, defend and keep, to their Cunning, Wit, and uttermost of their Power, which Oath was enacted and enjoin'd by a Statute in the twenty sixth year of the said *Henry*.

Any person, who compares these two Statutes together, must observe these two things in them; First, that the Succession of the Crown of *England*, descends the same way, that other inheritances use to do, by the Law of God, Nature and Nations. And that, those Laws of Succession have obtain'd from the beginning of the Kingdom, and have been confirm'd by constant custom. Secondly, In that Statute, the being born out of the Kingdom, does not take place in the Successions to the Crown, neither can that exception, of the Heir's having been born in another Country, be objected in the Succession to the Kingdom. And tho' afterwards, the Succession was limited or restrained in the Person of the most Serene Queen *Elizabeth*, and the Heirs that should be lawfully begotten by the King, and that the Succession, failing lawful Children of the Kings body, should belong to whomsoever he should be pleas'd to name, by his last Will. Nevertheless seeing he never nam'd one, when all the Children Lawfully begotten of his own body fail, recourse must be had to the common Law, about Succession; by which Law, even by Virtue of that Statute, the question concerning the Succession is left to be decided. So as he, who otherwise, that is, by the common Law, was to Succeed, failing Heirs of the Kings body, and no Heir being nam'd by that King, ought to Succeed. And so that Statute, as to the General Succession of whatsoever Heirs retains still its full strength, not alter'd in the least; to the observation of which, all the Subjects in *England*, of whatever dignity and rank, Solemnly bound themselves, by *that Oath of Obedience to the King and his Heirs*, which they swore. The form of that Oath is set down in the II. Act of the following Parliament, which was held at *Westminster* in the twenty sixth year of *Henry* Eighth's Reign. And every Subject was bound to take the said Oath.

The first difference between the Succession of the Crown and the Succession of private persons.

Foreign Birth does not affect the heirs of the Crown.

In like manner it is to be taken notice of, that *forfeiture*, or *proscription*, may be objected against the Succession of private men, neither can any Subject, whose Father or Grand-father was condemn'd of Treason against his King or Country, Succeed in his Inheritance or Fief. But it is not so in the Succession of the Crown. For neither the *proscription*, either of him who demands the Crown, as his Right, nor the *proscription* of any of his Ancestors, or Predecessors, can hinder him from Succeeding to his Right of the Crown, as shall be declared afterwards.

The second difference. Forfeiture does not affect the heir of the Crown.

A Third difference in the Successions of private Men, the Brother Succeeds not his Brother, nor the Sister to her Brother or Sister, unless they are of whole Blood, that is unless the Brother and Sister, be altogether of the same Stock, and related as well by the Father as by the Mother. For if these Brothers be only of the same Blood, by the Father's side, that is, if they are Born of different Mother's, the Succession devovles first, by the common Law of *England*, to the Uncle, before it goes to the Half Brother. But we see it's otherwise in the Succession of the Crown. For tho' the Brother or the Sister be only of the same Blood by the Father's side,

The third difference respects the half blood.

ſide, and not of the whole Blood, they notwithſtanding Succeed to their Brother. Thus before the Conqueſt, the Sons of King *Edward*, which he had by ſeveral Wives, nay by Concubines, Succeeded one to another, to wit *Edmund* Succeeded *Athelſtan*, and after *Edmund*, his Brother *Edred*; to *Edmond Iron-ſide* Succeeded *Edward*, tho' begotten by their Common Parent *Ethelfred* by another Wife, to wit, *Emma*, Daughter of *Richard* Duke of *Normandy*. And lately Queen *Mary* Succeeded *Edward* VI. Queen *Elizabeth* Succeeded *Mary*, tho' we all know that they had different Mothers, to wit, *Jane Seymour*, the Mother of *Edward*, *Catharine* Daughter of *Ferdinand* the *Catholick* was *Mary*'s Mother, and *Anne Bullen*, Queen *Elizabeth*'s.

The fourth difference. The Inheritance of the Crown cannot be divided.

In private Men's Succeſſions, the Father's Inheritance, in Caſe he has ſeveral Daughters, and no Son, is divided among them, and each Daughter Succeeds to an Equal ſhare of his Inheritance. But it is quite otherwiſe in the Succeſſion of the Crown; For a Monarchy, is not to be divided, elſe it ſhould not be a Monarchy, but a πολυαρχία that is a Government by many.

The fifth difference.

Many other things may be taken notice of, by which the Succeſſion of the Crown differs from common Succeſſion, as that the Heir of it Succeeds to the Perſonal Eſtate, or Moveables, and not the Executor, as is common in other Succeſſions. So neither is the Third part of the perſonal Eſtate which (we commonly call the *Terce*) due by Law to the King's Widow, but only what is provided for her, by the Marriage contract, nor can ſhe have acceſs to theſe things, by any ſpecial proviſion of the Deceas'd King himſelf. So that it is a General Maxim in *England*, that the Crown is not under or comprehended, by any Laws or Statutes of the Common Law, which do not particularly make mention of the Crown. I have premis'd theſe things, to make appear that the diſtinction I made is a true one, to wit, that the Law of Succeſſion to the Crown is one thing, and the Succeſſion to the Eſtates of private men another; And that many more things, may be objected to a private heir, demanding his Succeſſion, than to a Succeſſor of the Crown. Theſe things, will make it much eaſier, to anſwer the objections, which are propos'd by our adverſaries, againſt the Succeſſion of the true Heir, in his Right to the Crown.

Triens uſufructus.

A general maxim as to the Succeſſion of the Crown.

But this is moſt certain from the Law of *England*, (to bring this whole controverſy at laſt home to the caſe in hand) and a moſt undoubted propoſition as well from the words of the Statutes, as by the conſtant practice of that Kingdom, that the King of *England* dying without Children, the next to him in Blood, is called to the Succeſſion of the Crown. Thoſe who are otherwiſe minded, not only oppoſe themſelves to the Divine Law, by which we are commanded *to be Subject to every Ordinance of man*, but alſo to the Law of Nature, of Nations, to the Civil Law, and which is highly important in this caſe, they act contrary even to the expreſs Municipal Law of *England*.

Who is next in blood to Queen Elizabeth.

Firſt then let us enquire, who the perſon is that is next in Blood. When the Families of *York* and *Lancaſter*, conteſted moſt bloodily, by mutual hatreds and deſtructions, for the Succeſſion of the Kingdom of *England*, each of them affirming that it rightly belong'd to him; at laſt *Richard* III. who was the laſt of the Houſe of *York* that poſſeſs'd the Kingdom, being overcome, was depriv'd not only of the Kingdom, but alſo of his Life by *Henry* VII. who was the chief of the Family of

Lan-

Lancaſter: All the Eſtates of the Kingdom, declar'd the ſame *Henry* King of *England*, in the Right of the Family of *Lancaſter*, and his Heirs to be forever the true and Lawfull Succeſſors in the Kingdom of *England*, and ſwore Solemnly an Oath of Fidelity and Allegiance to them. But *Henry*, who was the wiſeſt Prince of that Age, being ſenſible that there was little Security in Parliamentary Statutes, for confirming the Stability of his Family, and the State of the Kingdom (ſeeing the Statutes of *England* are ſometimes alter'd and annull'd, at the pleaſure of the ſtrongeſt,) and being affraid of a Claim from under *Edward* IV. (Nature her ſelf having ſtrongly impreſs'd on the minds of men, the Right of Succeſſion, as it were it's own Character) that he might more firmly eſtabliſh his Kingdom, he marryed *Elizabeth*, the true Heireſs of the Family of *York* and of the Kingdom. This was a moſt prudent deed, and tended to the Safety not only of the marryed Perſons, but alſo of all *England*; for *Elizabeth* was the Eldeſt Daughter and Lawful Heir of *Edward* IV. King of *England*, who had tranſlated the Kingdom from the Family of *Lancaſter* to his own. So the Titles or Right of both Families being joyn'd together, or rather mingl'd, all doubts concerning the Succeſſion, (which for almoſt ſixty years had embroil'd the Kingdom, and both Families,) were taken away. For the Children of that Marriage were the Princes and Heirs of both Families. Nor did any remain, either of the one or t'other Family, to revive that conteſt, which was then buryed, except the deſcendants from *Margaret*, Daughter of *George* Duke of *Clarence*, the firſt of which is *George Haſtings* Earl of *Huntington*. But the Duke of *Clarence*, was ſecond Son of *Richard* Duke of *York*. Whence he knows that there is no place for him, nor for his offſpring as long, as any deſcended of his Eldeſt Brother *Edward* IV. remain. As for the Family of *Lancaſter*, *Henry* VII. is declared by Act of Parliament to be the chief or firſt Prince of it, and by that Right, he had the Government given him, even before he was Crown'd. But ſeeing all our controverſy in this Chapter, is with the Counterfeit *Doleman*, who would put upon us, either the King of *Spain*, or the *Infanta Iſabella* his Siſter, or the Duke of *Parma*, as Heirs of the Houſe of *Lancaſter*, we ſhall anſwer their pretenſions, when we come to confute *Doleman*'s captious and falſe Reaſonings.

Holinſhed *in the life of* Henry vii.

So then of that Marriage, between *Henry* VII. and *Elizabeth*, the Princes and Heirs of both thoſe moſt Noble Families, to whom the Succeſſion of the Kingdom was confirm'd by a perpetual Law, were born four Children, to wit Prince *Arthur*, *Henry* VIII. *Margaret* and *Mary*; But upon failure of Iſſue by *Arthur* and *Henry* (which cannot be avoided after the Death of Queen *Elizabeth*) if both the Daughters were as yet alive, no doubt the Kingdom wou'd go to the Eldeſt of them as her Right; So as if *Margaret* and *Mary* were living at this day, *Margaret* would be preferr'd, *Henry* VII. being judge, in the Succeſſion to *Mary*. Both of them then being dead, and having left Children behind them, the Children and Deſcendants from *Margaret*, the Eldeſt, are to be preferr'd to the Children of *Mary*, even as ſhe her ſelf if alive ought to have been preferr'd to her. And all good men muſt be of this mind. For by the Law or Right of *Repreſentation*, which as *Doleman* confeſſes, takes place not only in *England*, but almoſt every where elſe among all Nations, the Children of the deceas'd, are to be call'd to the ſame Succeſſion, to which their Parents had been

The progeny of Henry vii. *and* Elizabeth

Ex jure repræſentationis.

call'd if Alive. *Margaret* had two Children, to wit, *James* V. King of *Scotland*, by her firſt Husband *James* VI. and by her Second Husband *Archibald Douglaſs* Earl of *Angus*, ſhe had one Daughter *Margaret Douglaſs*, who was afterwards Marryed to *Matthew* Earl of *Lenox*. King *James* V. left one only Daughter *Mary* Queen Dowager of *France*, and Queen Sovereign of *Scotland*, whoſe only Son is the moſt Serene Prince *James* VI. King of *Scotland*, who only remains of the former Marriage of the ſaid *Margaret*, except only the Princes his own Children, who viſibly have all the marks of a Royal Extract, of the ſecond Marriage of *Margaret* with the Earl of *Angus* there was only one Daughter *Margaret* who left two Sons, *Henry* and *Charles*. But *Henry* was Married to *Mary* his Couſin, in which Marriage only *James* VI. was Born. And ſo not only by his Mother, but alſo by his Father, *James* was the only Heir of the ſaid *Margaret*, being the ſole Heir of both Marriages. *Charles* the ſecond Son of *Margaret Douglaſs*, dying in the very Flower of his Age, left *Arabela* an only Daughter. So that there remain only theſe two, by *Margaret*, the Eldeſt Daughter of *Henry* VII. *James* VI. and *Arabella*. But *James* is not only before her, as deſcended of the firſt born of *Margaret*, but alſo as being the Son of the Eldeſt Son of *Margaret Douglaſs*, who was the only Child that remain'd of the Second Marriage of *Margaret* the Eldeſt Daughter of *Henry* VII. So that there can be no place, for the Children of *Charles* the Second Son, ſo long as either King *James* himſelf, or any deſcended of him remain. And ſo it neceſſarily follows, that if *Edward* IV. was Lawful King of *England*, whoſe right was recognis'd and confirm'd by two or three Parliaments, if after that *Henry* VII. *Henry* VIII. *Edward* VI. or finally *Mary*, and *Elizabeth*, who now Reigns, to the great Admiration of the World, were Lawful and Rightful Heirs of the Kingdom of *England*, if as the only Succeſſors to their Progenitors, they have held and enjoy'd the Kingdom of *England*; happily and peaceably, now for a Hundred and Forty years together, (For I do not reckon the two or three years Reign of *Richard* III. who had the Kingdom in the Right of the Family of *York*, to be a hindrance) *James* VI. is the Lawful and neareſt Heir to them all; neither can any pretend to diſpute it with him. But he is placed in the Throne, by the ſame degrees and means, or upon the ſame accounts, by which theſe his Predeceſſors obtain'd it. But if thoſe Kings were not Rightful Kings, it would follow, that *England* has had no King, theſe hundred and Forty years paſt, and that all the Deeds, Grants and Gifts, during all that time, may be reſcinded, as being void and proceeding from ſuch as had no Authority, to make, grant, or give them: Nay and whatever has been decided already, by juſt Sentences or Decrees, may, for want of Juriſdiction in the Judges, be Queſtioned.

The degrees of Succeſſion by deſcent from the Stock.

Suppoſing *Henry* VII. ſitting on the Throne of *England*, and his judgment was ask'd in this very queſtion, who ought by Law, to Succeed him in the Kingdom of *England*, after the deceaſe of his Sons *Arthur* and *Henry*, and their Heirs? What can we think would be his anſwer but the ſame that every wiſeman (and no doubt he was a man of great Wiſdom) that underſtands the Law, and every man that loves Juſtice, to which he had great regard, ſhould give in the like caſe; That is, my Sons *Arthur* and *Henry* being dead, and their Children, I married my Eldeſt Daughter *Margaret* to *James* IV. King of *Scotland*, that in caſe my Sons and their off-ſpring ſhou'd fail, ſhe and her Children ſhould Succeed to the Imperial Crown of this moſt flouriſhing Kingdom; and that the moſt deſirable, and long wiſh'd for happy

Union,

Union, of this whole Noble Iſland will be obtain'd by that Marriage, which has been ſo often heretofore unſucceſsfully attempted with the great Slaughter of men, and the overthrow of many ſtrong Armies, and *Britain* at laſt, which for many ages has been weaken'd and ſuffer'd grievouſly by civil Wars may enjoy profound peace and proſperity, and be free from all fears from it's Neighbours. Thus much concerning the degrees of Succeſſion from *Henry* VII.

The degrees of Succeſſion by aſcent from her preſent Majeſty.

And if we reckon the Succeſſion by aſcent, from the moſt Serene Queen her ſelf, it will terminate in the very ſame point: For if ſhe is the true and Lawful Heir of the Kingdom (which none but *Doleman* and the *Jeſuites* doubt of) after her Death, her Heirs muſt neceſſarily be call'd to the Succeſſion. In the firſt degree of which Heirs, are her Children and Deſcendants, which ſhe has none of; in the Second, her Brothers and Siſters, but ſhe has neither Brother nor Siſter alive, nor any deſcended of them. Thirdly it goes to her Uncles and their Children, but neither are there any; therefore at laſt the Kingdom devolves to her Aunts *Margaret* and *Mary*, and they being Dead, to thoſe who are deſcended of them. But ſeeing, as was ſaid, a Monarchy is not to be Divided, and both thoſe Ladies if Alive could not Succeed, *Margaret* the Eldeſt, by the privilege of her Age, and her Off-ſpring, are to be preferr'd to the Children and Poſterity of *Mary* the ſecond Daughter. But *James* VI. King of *Scotland*, and *Arabella* are all that remain of *Margaret*; and *Arabella*, as I think, neither can, nor will diſpute this matter with him, for the reaſons already brought; the Succeſſion therefore of *England* belongs intirely to *James*, by Right of Blood, and after the Death of Queen *Elizabeth*. And ſo the Right of Succeſſion, that King *James* VI. of *Scotland* has is moſt Clear and Evident, and Bright as the Sun at Mid-day, turn which way we will. 'Tis in no wiſe *uncertain*, *doubtful* or *ambiguous* as *Doleman* pretends: For he often repeats theſe words (*If the Succeſſion were clear, perſpicuous and evident.*) And he who doubts or demurrs of this Enumeration of the Succeſſion may be juſtly ſaid to ſtumble at Noon-day; nay the Series of the Succeſſion is granted to be true, by the greateſt Enemies of it, even by *Doleman* himſelf; Neither is there any Gap or defect in all the Frame and order of this Succeſſion; nor is there one before King *James* by Birth-right. Nevertheleſs he affirms *That the next Succeſſor of* England *muſt needs be very doubtful, and endeavours to ſhow that the Titles and Pretenſions of all the Families of the Blood Royal of* England, *which remain at this day, are Ambiguous and doubtful*; and all this to dazle Men's Eyes and darken the truth, making uſe of ſuch Objections as Incendiaries commonly muſter up; the Conſequence of all which is, That *England* has been in a perpetual Anarchy, theſe Hundred and Forty years paſt, and has not had any Lawful King all that time: And thus they endeavour to Jumble and confound the moſt oppoſite things, Heaven and Hell, Truth and Error, things in themſelves clear and certain with things doubtful, intending, with their Suppoſititious Titles, to caſt a miſt before our Eyes. What theſe Clouds are, which obſtruct this Light, and what the objections, by which this moſt juſt Title, and Right of the moſt Serene King is attack'd, ſhall now be conſider'd. Yet I make the Foundation of this whole diſpute to conſiſt in this, not who is the true and Lawful King, or Heir of the moſt flouriſhing Kingdom, or of the Family of *Lancaſter* or *York*, from many Ages already paſt; but only who is the Lawful and next Heir to Queen *Elizabeth* after her Deceaſe, as we ſee done in the Briefs that are call'd the *Briefs of Anceſtours* or of *Mort An-*

See Doleman's *preface.*

The enquiry here is only about the Lawful Succeſſor of Queen Elizabeth.

Anceſtrie, unleſs we ſhould ſay with *Doleman*, that ſhe is not Lawful Queen of *England*, nor that *Mary* her Siſter or *Edward* VI. their Brother were; nay nor their Father *Henry* VIII. nor their Grand-Father *Henry* VII. nor their Great Grand-Father *Edward* IV. But that during the *Reigns* of all thoſe Kings and Queens, *England* has been under a conſtant Anarchy. For here it remains only to be enquired, who Died laſt that was duly Inveſted and Seaſed of the Kingdom of *England*, and who was the Lawful and next Heir to him? In which queſtion, as I hope, we ſhall ſcarce find a Competitor. No man can be ſo entirely diveſted of all Modeſty, as to deny that *Elizabeth*, was Lawfully inveſted or Crown'd in the Kingdom, forty four years ago, (for Coronation is inſtead of inveſtiture and ſeaſin;) nor find any that has a nearer Relation to her, than the moſt Serene Prince King *James* VI, or a preferable Title to the Succeſſion by Right of Blood to his.

CHAP. II.

Concerning the Law about Foreign-Birth, *and its riſe or beginnings, and the Reaſon why it is an Obſtacle in the Succeſſions of Private Perſons, but not in the Succeſſion of the Crown.*

The firſt objection againſt the Succeſſion of King James VI. *is* foreign birth.

THE firſt Objection, that our adverſaries bring againſt the Title of the moſt Serene Prince, is *Alibi-genitura*, or *foreign-birth*. For thus our Adverſaries reaſon, *No man that is born out of the Allegiance or Territory of the King of* England, *can by Law be admitted to inherit or Succeed to any Eſtate in* England, *tho' otherwiſe he be next in Blood, and thereby has an undoubted Right to it. But the moſt Serene King was born in* Scotland, *which is neither of the Territory of* England, *nor within the Allegiance of the King of* England, *as neither holding of him* in capite, *as they ſpeak, nor owes it him any Allegiance, or Homage. Therefore, it follows of neceſſity, that the moſt Serene Prince, is not to be admitted to Claim any Eſtate in* England, *tho' otherwiſe it truly belongs to him, by Right of Blood and of inheritance.* This is indeed a compleat Syllogiſm, conſiſting of a Propoſition, Aſſumption and Concluſion, and has no fault in the form of it. The Propoſition is grounded on the plain words of the Municipal Law of *England*, by which *Children born in the parts beyond Sea, out of the Ligeance of* England, *ſhall not be able to demand any Inheritance within the ſame Ligeance, or Kingdom of* England, *tho' otherwiſe they have an undoubted Right to it.* The Aſſumption is clear of it ſelf, and is not denyed by any *Scotch* man: And conſequently the King of the *Scots*, cannot aſpire to the Empire of *England*, notwithſtanding he be next in Blood, nor is he to be admitted to demand the Inheritance of it.

Concerning the ſignification and riſe of Foreign-birth, *and in what perſons it takes place.*

Before I come to confute the parts of this Syllogiſm, ſomething muſt be premis'd concerning firſt the word *foreign-birth*, then what occaſion'd or gave riſe to the Law concerning it, and thirdly why it is admitted and takes place in the Succeſſions of private Perſons, but not in the Succeſſion of the Crown. He is ſaid to be of a *foreign-birth*, who is born out of the bounds of the Territory or Juriſdiction of any Sove-

reign

reign Prince, and who alſo is otherwiſe called a foreigner, ſtranger or out-landiſh man. Neither is *foreign-birth* any thing elſe, but ones being born without the bounds of the Juriſdiction of any Prince, in whoſe Territory, the Inheritance which he demands, lies. And ſeeing the Claimant, owes neither Homage nor Fidelity to that Prince, and yet demands to be admitted by Homage and Fealty to that Fief, which holds of him, the *Engliſh* uſe by their Law, to reject him.

The Law concerning Foreign birth, *is not peculiar to* England.

But they are in a great error, who think that that Law concerning *foreign-birth* is peculiar to *England*, and that it proceeds from their Municipal Law. For there is ſcarce any Country in *Europe*, which has not the ſame Law, concerning *foreign-birth*, and does not exclude *Aliens* or *theſe born out of the Kingdom*, not only from all Right of Succeſſion, within the Kingdom, but alſo from making a Will, and from all promotion to Eccleſiaſtical benefices. The *French*, all the Governments in *Italy*, nay the *Germans* and the *Spaniards*, as much as the *Engliſh* and *Scots*, make uſe of that Law. The reaſon of that Ordinance flows from the Feudal Law, of which this is the firſt and chiefeſt rule. *Unus & idem duorum dominorum homo ligius eſſe non poteſt*, that is, *one and the ſame perſon, cannot be Liege man or Vaſſal of two Superiour Lords.* For ſeeing, by the Feudal Law, all Fiefs hold of the Prince, they who hold of him, are call'd his Liege men, nor can they own another Prince, ſeeing the Prince only has his Liege men in his own Power, who has a peculiar Right, not only to their Obedience, in military Service, but they muſt alſo be always ready, both at home, and abroad in the Wars, by their Counſel and Aſſiſtance, to maintain and defend him; againſt all perſons whatſoever; and they muſt not conceal, in caſe they know any thing, that may endanger his Safety, Honour and Dignity, his Eſtate or Reputation; all which tho' they be common to him with other Lords of Fiefs, yet is a Liege-man alſo bound to more and heavier Services, to wit to expend his Eſtate and Patrimony, and to expoſe himſelf and his Life to the greateſt dangers in defence of his liege Lord, and, as we uſe to ſay, he is oblig'd to ſerve his Lord, as well with all his Goods, as with his Body.

It flows from the Feudal *Law.*

Et domino tam quoad bona omnia, quam corpus tenetur.

Reaſons why Foreigners are not ſuffered to Succeed to Inheritances in other Kingdoms.

He who is born under another Prince, whoſe liege Subject he is, becauſe he cannot perform theſe things, is put back from the Fief in another Country. For he cannot keep his fealty untainted and inviolate to two Lords, *viz.* to him, under whom he is born, and to his new Soveraign; Neither is it poſſible for him, in caſe of War, and Hoſtility between them, (and there are too frequent occaſions of War between Neighbouring Princes) to Succour them both, to aſſiſt both as a Souldier, and with his beſt advice; to conceal the Secrets of both Princes, which is chiefly required by the Feudal Law. For ſhou'd he know of any Plot, laid by one of his Soveraigns againſt the other, he becomes guilty of a moſt heinous Crime, for which his Fief will be forfeited, unleſs he Diſcovers it to him, for whoſe Ruin it is prepar'd: Again if he diſcovers it, he ſhall be Guilty of the Crime of ingratitude towards him whoſe ſecret Counſels he diſcloſes, and for that cauſe he forfeits the Fief which he holds of that other Prince, whoſe Secrets he betrays. So that it's impoſſible for him, to pleaſe both his Maſters and not offend either one, or t'other. *No man*, ſaid our Saviour, *can ſerve two Maſters, for he will Hate the one, and Love the other.* And ſeeing, we all have a greater concern for that Prince, under whom we were Born, eſpecially if we have Land

Fundum & larem.

and Houſe there, than we have for others, it has at laſt obtain'd, as it were, by the common conſent of all people, that all Foreigners are Suſpected in a Kingdom that's new to them, and kept from the Succeſſion. For why ſhall they be ſuffer'd to receive the Fruits and Profits of the Fief, which perhaps they may employ to the Hurt and Prejudice of the Superiour and true Soveraign, and for maintaining War againſt him. And whereas every Fief is liable for Service to it's Superiour, and the Vaſſal is obliged to be always ready with Horſe and Arms, when required, and ſometimes tho' he has not been required; becauſe every Vaſſal is tyed to aſſiſt his own Lord with his Advice: 'Twill be in vain, for the Lord of the Fief, to expect this of a Foreigner, or the Subject of another Prince. For it cannot be required, becauſe perhaps he Lives without the bounds of his Kingdom or Territory: Nor has he ſafe acceſs to him in the times of War, neither is he capable to adviſe him, as being altogether unacquainted with the State of Affairs, in that Kingdom, which he is much a ſtranger to. The ſame reaſon, hinders him from Succeeding to moveables or perſonal Eſtates. For ſeeing a Liege-man, is bound to lay out all his Effects, yet ſo as that he and his Children have neceſſaries, for the ſafety of his Soveraign, and the defence of his Country, and theſe very effects are a ſort of tacit Pledge for that, why ſhall theſe effects or moveable goods, be allow'd him to be ſent into other Countrys, from that in which they were Pawn'd: Or that a Foreigner, ſhou'd carry them along with himſelf, with which he may perhaps aſſiſt an Enemy, or abet a War, no probable reaſon can be given. 'Tis upon theſe accounts alſo, that a *Foreigner*, if he at any time Succeeds to a Fief, cannot Alienate it, leſt perhaps the Enemy ſhould be enrich'd with his Money. It cannot indeed be deny'd, but the loſs to that State in the Territory of which the Fief lies, is conſiderable, nay very great; ſeeing by Alienating it, the Common-wealth is depriv'd of ſome part of it's Goods and Profits, by which it might defend its Intereſt, and maintain its Dignity; neither will the loſſes of the reſt of the Citizens be leſs. For ſhould any Controverſy ariſe, concerning the boundaries and marches of the Fief, or upon other accounts, as uſually happens among Neighbours, about the commons for Paſture, or any diſpute in ſeed time or Harveſt, it will be much harder on them, that Live within the Territory, than it can be on ſtrangers who live out of that Juriſdiction. For theſe ſhall not be obliged to dwell within the Territory, and if they be to be cited before a Judicatory, 'twill be neceſſary to follow them into Foreign Juriſdictions, which is not allow'd to be done. Moreover in perſonal actions it will be difficult, if not quite impracticable, to execute a Sentence againſt them, when he againſt whom the ſentence ought to be Executed, is not acceſſible, and as the writers on the Feudal Law ſay, deſtraining cannot be Executed in the Territory of another Prince. All the Ancients were therefore agreed not to admit Aliens, or ſuch as were not Born in the Country, to the Hereditary Succeſſion of a Fief, in the Province of another Prince. And indeed Princes ſhould be very hardly us'd, ſhould any perſons Succeed to their Fiefs, who cou'd not be compell'd, to do the Duty and Service of the Vaſſal, being a *Stranger* and not inhabiting within the Kingdom, ſo as the Prince might require either his Counſel or his Aſſiſtance.

But

But some may object against this, that such a thing may be suffer'd in the acquiring a new Fief, but that a reason cannot be brought, that it shou'd be allow'd of, in Ancient Fiefs, or why any man shou'd be defrauded of the Fief of his own Ancestours; or his Ancient Inheritance. *Objection.*

Nay, This ought to take place as much in the Succession of an Ancient Fief, as in the Acquisition of a new one. For no man gives a Fief, but on these terms, so as that it holds of himself, and he retains to himself, the Property of the Fief, that is the *Dominium directum.* And by that Law the Vassal is only the Perpetual usufructuary, and consequently the Fief, is as much the Superiour's, as 'tis the Vassals. But if we shou'd say that it may go to a *Foreign* Heir, 'tis very unlikely that he will do the Service of a Vassal, and cannot be compelled to do it, seeing he is the Liege man of another Prince. *Answer.*

I know that in *France*, *Foreigners* or such as are Born out of the Kingdom, cannot Succeed, nor if they Dye in the Kingdom can they be Succeeded to, but even their moveables or personal Estates, become an Escheat. The *Scots* are only excepted, who many Ages past, purchas'd their Naturalization, Franchises, or being free Denisons, at the expence of their Blood; yet so, that if a *Scots* Bastard dies there the King of *France* and not the King of *Scotland*, Succeeds to his goods, of which I my self, when there, saw one Instance. I believ'd that the same practice, was according to Law among us, for that clause (*si ad parem & fidem nostram decesserit*) is always inserted in our Briefs, that is, *if he died in our peace and Faith.* For neither seems he, to have died, *ad pacem*, who never had been *faithful* or the Vassal of that Prince. For he died in the Kings peace who died guilty of no Rebellion, yet it was the Leige man or Vassal only, who died to the King's *faith.* Among us then, a foreigner is not *Succeeded* to, nor does a *foreigner Succeed*: Which, tho' I said, flow'd from the rules of the Feudal Law; yet it seems in some measure, to have been deriv'd from the ancient *Roman* Law, for by the Law of the *Romans*, the goods of strangers that died at *Rome*, were escheated, and belonged to the publick Treasury [a]. And none but Citizens of *Rome*, were allow'd among the *Romans*, the privilege of making Wills. If any thing was left to a stranger, of the goods that were within the boundaries of the Country, they became an escheat; and this custom, is to this day strictly observ'd, by the French. *The custom of* France *as to Foreigners.* *of* Scotland. *The meaning of that clause in* briefs, decedære ad fidem & pacem. *Excluding foreigners flow'd from the* Roman *Law.*

[a] L. 1. C. de hered. Instit. l. 1. §. de legat. 30. L. quidem de penis L. neque 1. de militari est. L. 1. §. penult. de his quæ non scriptis habentur.

In *Italy* they deal yet more hardly by strangers; For the *Milanoises* who arrogate to themselves the greatest Skill, in the Feudal Law, admit not any of foreign birth, to the Succession of private men, within their Territory; neither do they suffer their Subjects to depart from them, to dwell in other Cities, or to become Citizens to any foreign Prince, or to enter into any Covenant or Society with any other Cities or Princes, but after leave obtain'd of their Prince, and a fine pay'd him. Wherefore, as I observed before, a Liege Vassal cannot either abandon his Country, or prejudice his native Prince by changing his Habitation without his leave first obtain'd, as neither he who of a bond man was made free, cou'd renounce his Patron, nor a Vassal the Person of his Patron, nor the Patron the Person of his Client. *The custom of* Italy *in this matter.*

Tho'

Tho' theſe things appear to be true in the Succeſſions of Private men, and carry their own reaſons with them; ſeeing it cannot be, that they can ſerve two Lords, but they will Love the one and Hate the other: For while they endeavour to pleaſe one, they incur the diſpleaſure of the other. So that it was not without reaſon, that Princes in their own Dominions, did exclude Foreigners from the Succeſſion in Fiefs, that hold of them; But all this notwithſtanding, 'tis a far different caſe in the Succeſſion of a Crown or of Princes: For if a Sovereign Prince Succeeds to another man, who is the Subject, or Liege man of another Prince, he is allow'd by the Law, to claim his Inheritance, even tho' it ly within the Territory of that other Prince. The reaſon is, becauſe in that caſe, the condition of the Lord of the Fief, is not made worſe, but rather better: For he cannot only make uſe of the Subſtance of his own Fief, for ſupporting the publick charges of his Kingdom or State, but he alſo gets a Prince, who is otherwiſe a Soveraign, by this new Succeſſion to be forever engaged and bound to him, upon account of his new Fief; from which obligation, he who Succeeds, cannot recede, without violating his Oath. Thus did the Kings of *England*, Succeed to the Provinces of *Anjou*, *Poictou* and *Aquitain*, which hold *in capite* of the Kingdom of *France*. As for *Normandy*, it was their property, before they enjoy'd *England*. In like manner the King of *Scotland* was the King of *England*'s Vaſſal, for *Northumberland*, *Cumberland* and *Weſtmorland*: And he never fail'd in his Fidelity or Homage, to the King of *England*, ſo long as he held theſe Provinces in Fief of him. But the Emperour *Charles* V. was a Liege man of many Princes, as of the Pope of *Rome*, for the Kingdoms of *Naples*, *Sicily*, *Sardinia* and *Arragon*, of the *German* Empire for *Milan*, *Brabant*, *Gelderland*, *Friſeland* and other Provinces which held of it. He was alſo Vaſſal to the King of *France*, for *Flanders*, *Artois* and *Haynault*; nay the King of *France* himſelf, uſed to be a Vaſſal of the Empire, for a Province which he held of it. For theſe Fiefs, were as pledges of inviolable friendſhip, among diverſe Princes. Neither is it to be fear'd, that one Prince who Succeeds to the Fief of another Prince, will abuſe the Wealth or Product of that Fief, to the hurt of the Prince or State of which he holds it; ſeeing he always retains the Fief during the War, and may uſe the profits of his own Fief; and by the rigour of Law, theſe Fiefs revert to their Superior, if it appear that unlawful Arms, have been taken by the Vaſſal againſt his own Soveraign, or if he refuſes to appear in Judgment, after he has been cited. Hence were thoſe frequent adjudications of *Normandy*, *Anjou*, *Poictou* and *Aquitain*, to the Crown of *France*, by the Sentence of the Parliament of *Paris*, when there were Wars between the Kings of *France* and *England*: Untill at laſt the King of *France*, poſſeſs'd himſelf by force of Arms, of all thoſe Provinces: Even as the King of *England*, wreſted out of the hands of the *Scots*, their Provinces of *Northumberland*, *Cumberland* and *Weſtmorland*. Thus it happens, when a Prince, who of himſelf has the Rights of Soveraignty, becomes a Vaſſal to another Prince, by Succeſſion or any other way.

There were reaſons for excluding foreigners from the Succeſſions of private men but not from the Succeſſion of the Crown.

But in two Princes, when one Succeeds another, both being Soveraigns, the reaſons are much ſtronger, for the one's being admitted to Succeed the other, altho' he be a *foreigner*. For if one comes to be Lord of both Eſtates by Succeſſion, it is not to be fear'd, that he will make War or bear Hatred againſt himſelf, or betray his own Counſels; but that

A Foreign *Prince Succeeds rightly to another, and the reaſon why it is ſo.*

that he will rather employ the Riches, of both Kingdoms, for the safety and defence of them both, as there may be occasion; he will unite the wealth and strength of both, for the benefit and advantage of each of them; He will mind the interest and concerns of both alike, as knowing himself to be upon the same account, Lord of both. Wherefore tho' in the Successions of private men, this exception of *foreign* birth seems to have place by the Law of all Nations: Nevertheless for divers reasons, it's evident, that it has no place in the Succession to a Crown [a]. For as it is the part of a good Judge, to apply the Law (which cannot reach all things, nor comprehend all cases) to cases that are alike, as long as there is the same reason for his decision: so if there be a difference of the reason, or if some known absurdity results from it, or an inconveniency instead of a conveniency, the judgment ought to be alter'd. Reason is, as it were, the Soul of the Law, [b]. And the mind of the Law is given by the Doctors of the Law [c]. And the whole Law is corrected, by the reason of a corrected Law. *Bartolin in L. cum mulier soluto matrimonio. Bald. in L. maximum dicitur.* And the reason of the Law ceasing, makes the Law it self to cease. Indeed all clauses or articles, cannot be particularly contain'd in any Laws or Ordinances of Senates; but when the judgment of them is manifest, in any other case, he who presides as judge extends it to the cases that are alike. For as *Pedius* says, whenever one or another thing is establish'd by a Law, a good occasion is offered to supply the rest by that Law, which have a tendency to the same benefits, either by the usefulness of it, or by the Authority of the judge. But what has been introduced contrary to the reason or equity of the Law, is not to be made an example or rule [d]. So then, wherever the reason of the Law or Statute is lost, and does not continue the same, 'tis certain in that case, that the whole Law is overturn'd and ceases. For it's Evident that the diversity of Law, takes rise from the diversity of the reason. For the reason why a *Foreigner* is not allow'd, to Claim, or demand his Succession, in a Kingdom, to which he is a stranger, is clear and evident. Because it cannot be done, without grievous hurt and loss to the Kingdom, or State, as I said, and to the Superiour, a thing chiefly to be minded in Fiefs, that the condition of the Superior be not made worse. But when a King is allow'd his just Claim to a Kingdom, or even to a Private Succession in it, the Condition of that Kingdom or Common-wealth comes to be better. The former Substance of the Kingdom is not diminish'd, nothing of it carried out of the Kingdom, and the Wealth of the Claimant, how great soever it be, accrues to the former Riches of that State: And that is the reason, why tho' in *Italy*, *France* and *Spain*, private men of *Foreign Birth*, are not admitted to the Succession of private men in their Inheritances, yet Princes are allow'd to Succeed; as in *Milan*, where the King of *Spain*, tho Born in another Country, is Soveraign, and also of *Naples*, *Sicily*, *Corsica*, and *Sardinia*. And yet, as I said before, that rule of the Feudal Law, is no where more strictly, or more exactly observ'd, than it is in *Lombardy* and *Naples*, where no person can be at the same time, a Liege-man of two different Lords, if both of them have the Rights of Majesty. The advantages which indeed the Kingdoms of *Naples*, *Sicily* and *Sardinia* reap, by having a Foreigner for their King, are these, to wit, not only these Provinces, but also the Neighbouring Countries, and even all *Italy*, are by his Riches and Power, and the Strength of those Kingdoms, which

[a] L. illud ad L. Aquiliam.

[b] L. cum patre dulcissimus de L. 1. & lege adgeræ §. quamvis de jure patronat. C. milites. agrum de re militari.

[c] Gloss in L. 1. de legit. tutel. Bald. in L. generaliter. cap. de Episcopis & Cler.

[d] L. non possunt cum seq. de legibus & senatusconsl.

 are

are Subject to him, preſery'd ſafe and free, from the Violence and Ravages of the *Turks*, and the *African Pirates*. And if we do not obſerve this diſtinction, by what Law or Right could *Henry* II. King of *England*, Succeed to the Provinces of *Saintonge*, *Anjou*, *Poictiers* and *Aquitain*. 'Twas undoubtedly becauſe Princes in their Principality, or in their Succeſſion to a Crown, are excepted from that general Law, excluding Foreigners, from Succeeding. Our Neighbours, who think that it is a peculiar and Municipal Law of *England*, are in a miſtake, as was ſaid above. For it is common to them with other *European* Nations, and conſequently the propoſition of the Syllogiſm is to be moderated and diſtinguiſh'd by the common cuſtom, practice and conſent of all other Nations, ſo as to take place only among private Perſons. But when he who ought to Succeed, or he who is to be Succeeded to, is a Sovereign Prince, that rule nevertheleſs has no place, as I have ſhew'd, and ſhall prove more fully afterwards. And this is the firſt Anſwer to that objection of *Foreign-Birth*.

The propoſition is to be diſtinguiſh'd, and he who as being of Foreign-birth, *is not admitted to the Succeſſion of private men is nevertheleſs to be admitted to the Succeſſion of the Crown.*

CHAP. III.

The Statute of Edward III. *extends not to any other* Foreigners, *but only to ſuch as are born* beyond Sea.

The Second anſwer to that exception of being born out of England, *from the Statute of* Edward iii.

THo' I doubt not, but the reaſon of the difference between the Succeſſions of Princes and Private men, which I inſiſted upon in the former Chapter may ſatisfy all good men; nevertheleſs that there may be no occaſion of Subterfuge, left to any Caviller, I ſhall proceed alſo to other reaſons, by which, as I think, it will be Evident to all, that that Statute concerning thoſe Born out of *England*, does not reach *Scotland* nor any *Scots* man. And firſt ſhou'd I be contentious or ſtiff, I might affirm that there is no ſuch Law, or Statute by which foreigners, or thoſe born out of the Kingdom, are excluded from the Succeſſion of their inheritance, that belongs to them in *England*. As for that Statute, that was made in the 25. year of the Reign of *Edward* III. it is rather a commemorating or reciting of a petition, that had been given in to the Parliament, that was held in the eight year of his Reign in which they pray'd, that *foreigners* might be excluded from the Right of Succeeding the free born, or Natives. For as the Hiſtorians of that time tell us, many and grievous complaints were preſented by the *Engliſh*, eſpecially by them of the lower rank, againſt *foreigners*, becauſe they exhauſted the riches of the Kingdom, intercepted the gain of tradeſmen and merchants, and yet bore no ſhare of the publick burdens: but chiefly, for their being promiſcuouſly preferr'd with the Engliſh to Eccleſiaſtical Dignities and Benefices. And that there might be a Statute made againſt that, the *Engliſh* often preſented their grievances publickly, to the Eſtates of the Kingdom in Parliament aſſembled; particularly a petition

The occaſion of that Statute.

Holinſhed *in the life of* Edward iii. *in the* 16 *and* 17 *year.*

was

was put into that Parliament, that was held at *Weſtminſter*, in the ſeventeenth year of that Kings Reign, neither was it fully granted, as the Statute in which it's mention'd ſays expreſly. For by right, to the making of a Statute, nothing ſhou'd be wanting of the uſual Solemnities, and unleſs the conſent of all concern'd is had, the want of that is rather to be reckoned a diſſent, than a conſent. For as the Lawyers ſay, *quod omnes tangit, ab omnibus debet approbari*[a]. That in which all are concern'd ought to be approv'd of by all, and where there is not a full conſent, there is a plain diſſent, for between theſe two there is no *medium*. And if there was a diſſent, then the Petition was rejected, and they, who were *born out of the Ligeance of England*, were allow'd to Succeed. Neither is there any *prohibitory* clauſe in all that Statute, which excludes ſuch as were born elſewhere than in *England*, from Succeſſion in the Kingdom of *England*.

[a] L. Sabinus F. communi dividundo c. quod omnes de reg. juris in 6.

But that I may not ſeem too troubleſome, (ſeeing the Rubrick it ſelf witneſſes that there was ſome ſuch order) I ſhall give them that point, that by that Statute thoſe of *Foreign Birth* were hindred from Succeeding, upon condition that they do not Grndge us our replies, which can be made from the very words of that ſame Statute: And we ſhall plainly make appear, that neither from the words of the Statute, nor for any other reaſon, was it ever ſaid or thought to be the meaning or ſenſe of it, that the *Scots* ſhould be Excluded from their Right of Succeſſion, even in a private Inheritance in *England*.

The Words of that Statute, which forbids thoſe born out of England *to Succeed, extends only to them who are born beyond Sea.*

The words then of the Statute, extend not to all born out of *England*, but only to thoſe, who were Born *in the parts beyond the Sea*. And whenever a Statute is prohibitory, and takes away a Right, from any Perſon or Perſons, which by the Rules of Common Law, belongs to them, ſuch a Statute is reckon'd *juris ſtrictiſſimi*, of the moſt rigorous kind of Law; and is by no means to be ſtretch'd farther, or to Receive any harder Interpretation than the words, as they ſay at the Bar, import or bear. But the Rubrick or Title that makes firſt mention of this Statute, contains theſe words. *A Statute made* Anno 25. Edward *III. of thoſe that be Born beyond Sea.* That Rubrick witneſſes indeed, that there was another Statute made in the Seventeenth year of his Reign, concerning the Children born beyond Sea: But the text it ſelf affirms expreſly, that the *full aſſent of all Eſtates was not given* to that Statute. Howſoever our Neighbours have no other Teſtimony, to prove that there was any ſuch Statute, but only the Rubrick or Title, an Eſtimate of which is to be made from the words of it. For in the Civil Law, an Argument may be taken from the Rubrick. For, as the Lawyers ſay, the Rubrick contains the *Summarium nigri* the Summary of the black, that is contain'd under it, and as *Baldus* ſays, *dat intelligere nigrum*[a]. 'Tis a Key for underſtanding the Black. No man who is even initiated lately in the Civil Law, but knows that what we call an *Epigraphe* or Superſcription, is call'd the Rubrick, which in very few words gives the Summ of the Text. But the black is the Text it ſelf, for the *Epigraphe* was written in Red Letters, and the Text in Black. Wherefore ſeeing the Rubrick of that Statute, concerning *Foreigners*, makes no mention neither in General, nor Particularly of any, *But thoſe Born Beyond Sea*, that Statute is only to be extended to them, and not to any others.

[a] Bald. in L. 1. C. ne liceat in una cauſa bis provocare.

What kind of argument, may be brought from the Epigraphe *or Rubrick of the Statute.*

But

Objection. But ſome may object here, and that from the Civil Law, if there be more in the Text, (which they call the Black) than in the Rubrick, then the Text ought not to be reſtrained and limited by the Rubrick.

Anſwer. I Anſwer, that no other Foreigners are mention'd in the Text it ſelf. (If this be the Text that forbids Foreigners to Succeed) but thoſe that are Born beyond Sea. The words of the Statute are theſe:

Becauſe that ſome people be in doubt, if the Children born in the parts beyond the Sea, out of the Ligeance of England, *ſhould be able to demand any inheritance, within the ſame ligeance or not, The King willing that all doubts and ambiguities ſhould be put away, charged his Parliament to deliberate upon this point*, &c.

Neither the text, nor the Rubrick ſpeak of any Strangers but of them that were born beyond Sea.

So that neither the Black it ſelf or the Text, Speaks of any other Foreigners, but of thoſe only that were Born Beyond Sea, which is very clear in the exception, that's contain'd in that ſame Statute, And by an exception we may come to know the Nature of it's Rule. For there are three excepted from the General rule.

Henry *Son of* John de Beaumond, Elizabeth *Daughter of* Guy de Bryan, *and* Giles *Son of* Ralph Dawbeny *and other which the King will name; which were born*, as is expreſly ſaid in the Statute, *beyond the Sea, ſhall be from henceforth able to have and enjoy their inheritance after the death of their Anceſtors in all parts within the ligeance of* England, *as well as thoſe that ſhould be born within the ſame ligeance.*

And the ſame clauſe is twice repeated in the concluſion of that Statute.

So always that the Mothers of ſuch Children do paſs the Sea, by the Licence and wills of their Husbands. And again, *If it be alledged againſt any ſuch born beyond the Sea, that he is a Baſtard, in caſe where the Biſhop ought to have cognizance of Baſtardy, it ſhall be commanded to the Biſhop of the place where the demand is, to certify the King's court, where the plea thereof hangeth, as of old times hath been uſed in the caſe of Baſtardy, alledged againſt them which were born in* England.

Theſe clauſes make it evident to all, unleſs ſuch as are ſtupid or obſtinate, that that Statute, if it may be call'd a Statute, ſpeaks of none of *Foreign Birth*, but of ſuch as were Born Beyond Sea; who becauſe they were and might truly be ſaid to be of *Foreign Birth*, it was commonly receiv'd, that that Statute concerns *Foreigners*, and not thoſe that were

were Born beyond Sea, as the title and the words of the Statute Signify to us.

But shou'd any man be so wilful in his opinion as to think that that Statute, extends to others born in other places, than beyond Sea, I shall be at some more pains to cure his mistake, and first bring one Statute of *Henry* VIII. which is in order the twenty fifth, *Anno tricesimo tertio Henrici* VIII. Of which Statute, this is the Title.

Another Statute of Henry viii. *agreeing with that of* Edward iii.

An Act by which the privilege of the natural born English is allowed the Children of some Subjects, which were born beyond Sea.

And the very words of the Statute are conceiv'd in favour *of the Children of* Thomas Points, William Castellin *and* John Dimmock, *born beyond Sea, yet because they petitioned to be numbered and reputed the Kings natural Subjects, the King with consent of the three Estates grants the prayer of their Petition, and enables them to enjoy all the privileges of natural Subjects, that is to enjoy Land by descent, or purchase, to sue and to be sued.* And that for the future they shall be, and be reputed as true and natural born English. Now when privileges are granted, which are against the rules of the common Law, it follows necessarily, that that common Law or Statute, was not understood to reach to all, who were not born in *England*, without distinction, but only to those, that were born beyond Sea, otherwise the exception should be of another Nature, and mean other persons than the rule does; than which supposition nothing is more absurd. For in this special Law in favour of those three persons, there is no mention of *Ligeance*, or Jurisdiction of *England*, but only their Children's being born *beyond Sea*, and consequently because they were born beyond Sea, they could not enjoy inheritances in *England*, unless that special Statute in their favour had enabled them. Shall we think that a most wise Prince, and all the Estates of the Kingdom met in Parliament, understood not the Laws and Statutes of the Kingdom, and that what was said of them, that were born beyond Sea only, was by the King and Parliament extended to all that were born any where without the Ligeance of *England*? Had that been their meaning, the Statute had not been so conceiv'd, as that the benefit of enjoying the privileges of natural Subjects should have been allow'd them, notwithstanding their being born beyond Sea, but rather meerly notwithstanding their being born without the *Ligeance* or Allegiance of the King *England*.

Four examples from the Statutes of Queen Elizabeth.

Nay and this most August Queen her self in the Parliament that was held by her in the thirteenth year of her Reign, bestow'd the privilege of a natural born Subject on one *Peregrine Bartue*, who was afterwards made Lord *Willoughby*, and Governour of *Berwick*, notwithstanding that he was born beyond Sea. *1 Example.* And in the Parliament held in the eighteenth year of her Reign, the same benefit, was, with the consent of all the Estates then met together, granted *Jane Sibylla*, Wife of the Lord *Gray* of *Wilton*, tho' she was *born beyond Sea*; *The Second.* and to some others whose names we have not, because that Statute, which contain'd the privileges that were allow'd to some particular persons, was not printed among the other Statutes of that Parliament. And in the Parliament which was holden at *Westminster* in the twenty third year of her Reign, it was provided by a Statute, that some persons should be held and reputed, as *The Third.*

natural born Subjects of *England*, tho' they were born beyond Sea, and I hope the candid Reader will pardon me for not giving their names particularly, ſeeing that Statute is not among the printed Acts, tho' the Title of it, is. In like manner, in that Parliament that was holden at *Weſtminſter* in the thirty firſt year of her Reign, the ſame benefit of a natural born *Engliſh woman*, was given to *Joyſa* the Daughter of *Rodolph Eſtingent*, and Wife of *Richard Lambert*, tho ſhe had been *born beyond Sea*, yet that Statute is not printed, only the Title of it is put among the Statutes of that year. And that Statute in the thirty fifth year of her Reign, is agreeable to thoſe already nam'd, by which the Children of ſome *Engliſh* Parents, were made natural Subjects of *England* (their names are not known to us, that Statute alſo not having been printed) notwithſtanding their being *born beyond Sea*. In all theſe five Acts or Statutes, no mention is made of them, that were Born without the *Ligeance*, *Allegeance*, or *Territory* of *England*, but only of them that were *Born beyond Sea*. In the VII. Statute of the ſame Queen's Fifth Year, there is a prohibition againſt the importing ſuch Foreign Wares made beyond Sea, which could be as well made in *England*, the reaſon of that Statute is contain'd in the Body of the Act. But if any of her Subjects ſhould bring goods from *Scotland* into *England*, is he to ſuffer the Penalty of that Statute? I think not. Wherefore it remains, that that Statute of *Edward* III. ought to be underſtood only of thoſe who were Born beyond Sea, even as the very words of it, and the other Statutes, which have been afterwards enacted, extend that Statute.

The fourth Example.

Objection. But ſome may ſay, why ſhould they who are Born in *Scotland* be diſtinguiſh'd from theſe *Trans-marines* who are Born beyond Sea! *England* has ſuffer'd as great Hoſtilities from the *Scots*, as it has from any Countries beyond Sea: and therefore, tho' the Words of that Statute, do not extend either to *Scotland*, or to the *Scots*, yet the reaſon of the Law does, neither do the *Scots* deſerve any greater privilege in *England*, than any that are born in any other place of the World.

Anſwer. I anſwer, that the common people in *England* had not the ſame grounds of complaint againſt the *Scots*, as they had againſt *Foreigners*; For the former did not encroach upon their gain, neither did they as the Foreign Artificers import Goods into *England* at the time, when that Statute of *Edward* was made: But the *Scots* at that time were not only reputed Natural *Engliſh*; but the ſame *Edward* alſo reckon'd *Scotland* among his own Provinces, Territories, and Jurisdiction. Moſt People know that conteſt between *Bruce* and *Baliol*, for the Kingdom of *Scotland*, in which *Edward* I. being made *Arbiter* or *Umpire*, he adjudg'd the Kingdom to *Baliol*, upon his promiſing Homage and Allegiance to *Edward*, and to his Heirs, Kings of *England*. But when *Baliol* perceiv'd that he was no wiſe able to Bear ſuch a Burden, and that he had rendred himſelf Hateful to the *Scots*, as having Subjected a Kingdom, which before that time was Free and Independent, to the Allegiance and Homage of another Prince, he at laſt left *Scotland*, and alſo reſign'd his right of the Kingdom, if he had any, to *Edward*, as to his Superior; Yet that did not prevent Bloody Wars, but rather Kindled them: For they Fought with moſt Cruel Hatreds and Reſentments, as well in *England* and *Ireland* as in *Scotland*. At laſt a Peace was concluded on theſe Terms, That *Scotland* ſhould be left free and independent, and *Joanna* Siſter of *Edward* ſhould be given in Marriage to *David*, at that time Prince of *Scotland*; but

but after the Death of King *Robert Bruce*, *Edward Baliol*, Son of the Former *Baliol*, taking his advantage from the nonage of King *David*, and the Factions of the *Scots* Nobility, entred *Scotland*, having obtain'd of *Edward* King of *England* Four Thouſand Engliſh Forces, for his Aſſiſtance, and gaining a Victory, he took the Crown of the Kingdom; but finding himſelf Unfortunate in a Battle afterwards, and the *Scots* being recruited preſs'd hard upon him, he call'd in *Edward* III. to his Aſſiſtance, and perform'd Homage to him, as to his Superior Lord for *Scotland*. *Edward* upon that invitation haſten'd to *Scotland*, being nothing mov'd with the Tears of his Siſter, and went almoſt through all that Kingdom, untill his own Affairs call'd him Home, and he left *Edward Baliol*, with a part of his Forces in *Scotland* to Subdue it. But he being unſucceſsful and as *Polydore* ſays, he and all his men being overcome in one Battle, and finding that he was not able to carry on the War, he reſign'd all the Right, that he had in *Scotland*, as his Father had done before, and Transferr'd it to *Edward*. From that time *Edward* look'd on himſelf as King of *Scotland*, and reckon'd it among his own Countries, as much as he did *Wales* and *Ireland*. And that he might engage the Affections of the *Scots*, he was willing that they ſhould enjoy the ſame privileges, with his own Natural *Engliſh* Subjects. But that the Reader may be fully convinced of the truth of this, and that what I affirm is not a Fiction of my own, he will ſee it clearly in the Statutes of the Parliament, which was held at *Weſtminſter* in the Eleventh Year of his Reign, the Title of which is, *No Cloths made beyond the Sea, ſhall be brought into the King's Dominions.* The prohibition is, *that no Foreigner or Denizon, ſhall bring or cauſe to be brought into the Lands within the Kings power*, and the Lands are thus Specified, *England, Ireland, Wales and Scotland*, as being all *within the Power* or Juriſdiction of the King. And that no *Engliſh, Iriſh, Welſh or Scots man* within the power of the ſaid King, ſhall uſe any other Clothes, but ſuch as are made in *England, Ireland, Wales* or *Scotland*. The ſame thing is twice or thrice repeated in theſe Acts. And therefore ſeeing he believ'd *Scotland* to be, not only within his own *Ligeance*, but alſo to be his own, he did not reckon it among Foreign Provinces, nor the *Scots* to be others than Born within his own Juriſdiction.

The Scots were reputed as Engliſh *in the reign of* Edward iii.

Moreover the *Engliſh* always entertain an opinion, that the King of *Scotland* owes homage to, and is Vaſſal or Liege-man of the King of *England*, for the Kingdom of *Scotland*: All their Writers ſay it and *Edward* I. and *Henry* VIII. claim'd it, by publick Inſtruments under their hands, but I have conſidered their pretenſions to that in another Treatiſe. But whether, what they aſſert be true or falſe, yet perhaps they had ſome ſort of reaſon for their aſſertion, at the time when that Statute was enacted. For it is certain, that *John Baliol* and his Son *Edward*, whom both *Edward* I. and *Edward* III. judged to be the true Heirs of the Kingdom of *Scotland*, did out of too great fondneſs of Reigning, pay Homage to theſe Kings, even for the Kingdom of *Scotland*; But that deed of theirs was ſo ſhocking to all the Eſtates of *Scotland*, and to all ranks and degrees of the people in it, that they renounc'd and diſclaim'd both the Father and the Son, and follow'd *Bruce* who was his Competitor, and under his conduct repay'd the *Engliſh* the miſchiefs and deſtruction which they had formerly receiv'd. But fortune did ſo favour *Edward* III. at the time, that that Statute was made, that he had

De Hominio.

Reaſons, why Edward iii. *look'd on the* Scots *as Subjects of* England.

had not only the right of *Baliol* devolv'd on him, but he had alſo *David Bruce*, the other Competitor, who was the true Heir of the Kingdom, and had been overcome in Battel, his priſoner. And therefore being ſecure of both parties, he thought with himſelf that *Scotland* was his own Province, when that Statute, *concerning thoſe born beyond Sea*, was made, which *tranſmarines* only he reckon'd not to be his own Subjects. And perhaps that was the reaſon, that mov'd him to make no Law againſt *Scotland* or any of the *Scots*, to debarr them from enjoying any Rights or Privileges of *Engliſh* Subjects.

Moreover had he but ſaid, or made any inſinuation, that the *Scots* were without the *Ligeance or Allegiance* of *England*, he had by his own confeſſion and by the confeſſion of his Eſtates of Parliament, quite ruin'd his pretenſions to Homage from *Scotland*. For upon what account, could he have claim'd Homage from a *Scots* man, if once by his own Statutes, he had placed them without the *Ligeance* of *England*? Neither does reaſon allow that Statute concerning thoſe *born beyond Sea*, to extend to the Scots, but only to foreign *ultramarines*, who by trade, and the dexterity of handicrafts, and by their poliſhing and varniſhing neatly what things they made, and their ingenious inventions, carried away the gain from the Engliſh Subjects, no ſuch thing was to be fear'd from the *Scots* at that time. There were perhaps alſo other reaſons to move him; as that *David* King of *Scotland*, had his Siſter for Wife, and at that very time *Edward* endeavour'd all that ever he could with *David*, that upon failure of the Children of his own body, he wou'd interpoſe with the *Scots*, to take *Edward* for their King.

The Kings of England *often endeavour'd to unite all* Britain.

'Tis more than probable that at that time, and before it, the Kings of *England*, had often thought ſeriouſly of an Union of all *Britain*, which could never be brought to paſs, but either by force of Arms, or by Marriage. The *Engliſh* often tryed both ways for compaſſing that deſign, and having found by experience that the way by Arms had been very expenſive and unſucceſsful, they endeavour'd to bring it about, by frequent and mutual Marriages; For they often gave their Daughters in Marriage, to the Kings of *Scotland*, and ſometimes had Wives to themſelves from *Scotland*. So *Malcolm* III. had *Margaret*, who after the death of her Brother *Edgar Atheling* was heireſs of the Kingdom of *England* for his Wife. *Henry* I. Married the Daughter of the ſame *Malcolm*, *Mathilda*. *David* I. Married *Mathilda*, the Daughter of *Waldrof* Earl of *Northumberland*, and Neice to the Conquerour. *Alexander* II. Married the Daughter of King *John*, and again *Alexander* III. Married the Daughter of *Henry* III. *Edward* I. was very earneſt for a Marriage between his Son *Edward* II. and *Margaret*, who was at that time Heireſs of *Scotland*; and he had effected it, had that Lady liv'd. The Daughter of *Edward* II. was Married to *David Bruce*: And *Henry* VI. having no Daughter of his own, Married his Couſin to *James* I. There was an Alliance by Marriage ſet on Foot, between *James* III. and *Edward* IV. As alſo between *Richard* III. which took effect moſt happily afterwards in *James* IV. who Married *Margaret* the Daughter of *Henry* VII. her Father Marrying her on that condition and proviſion, That in caſe his Sons and their Off-ſpring, ſhould fail, the Kingdom of *England* ſhould belong to *Margaret*, and to her Heirs. And from what has been ſaid it appears ſufficiently, That that propoſition is not true, with reſpect to any Born out of *England*, but only ſuch as were *Born beyond Sea*, and con-

conſequently that propoſition may be ſafely denyed, or at leaſt that it extends not to thoſe that are Born in *Britain*.

CHAP. IV.

'Twas provided by a ſpecial Statute of England, *that the* Scots *ſhould not be reputed as Strangers or of Foreign birth; but that they ſhould have the benefit and privileges of the ſame Laws with the* Engliſh.

The third anſwer to the exception of Foreign-birth.

A Better and more important reaſon perhaps might have been brought, why after the cuſtom of the *Engiiſh*, the *Scots* ought not to be reckon'd among ſtrangers, or of foreign birth, and therefore not mention'd in that Statute of *Edward* III. That this may be better underſtood, we muſt look back as far as the Wars between the *Danes* and the *Engliſh*, which were moſt bloody and grievous. In all thoſe Wars, the *Scots* did always faithfully and ſtrenuouſly aſſiſt the *Engliſh*, joyn'd their forces with theirs, maintain'd a part of the War in their own Country of *Scotland*, neither did they ever refuſe to ſuccour them with auxiliaries, untill *Athelſtane* reckoning himſelf ſecure, after the *Danes* were overcome, took back from the *Scots* the Countries of *Cumberland*, *Northumberland* and *Weſtmorland*, which they held of *England*. This gave riſe to Wars between the two Nations, which prov'd of very ill conſequence to both. And tho the *Engliſh* gain'd a Battel, yet fearing leaſt the *Scots* being provok'd, ſhou'd reſent the wrong done them by joyning iſſue with the *Danes*, they ſoon appeas'd the *Scots*, by reſtoring to them theſe Provinces. For the *Scots* were convinc'd, that it was not for their intereſt nor ſafety that the *Danes* ſhou'd be Succeſsful in their Wars in *Britain*; ſeeing they aim'd at the conqueſt and Dominion of *Scotland*, as well as of *England*. And beſides they were Heathens and Infidels at that time. Wherefore tho' the *Scots* had juſt cauſe of offence given, yet they choſe rather to pardon former injuries, than to think of Revenging them, and muſter'd their forces to rejoyn the *Engliſh* againſt the common enemy of their Country and Religion. From that time the *Engliſh* Kings themſelves did not more ſtoutly and faithfully, defend their Kingdom and concerns, than the *Scots* did: Which did ſo exaſperate the *Danes* that they transferr'd the War into *Scotland*, finding that they had a much ſhorter and eaſier ſailing from *Danemark* to *Scotland*. So from the time of *Athelſtane* to the *Conqueſt*, being a hundred and forty years, the *Scots* liv'd in the cloſeſt friendſhip with the *Engliſh*, and in their Wars, had the ſame friends and enemies, were always at hand with ten thouſand men at leaſt, as oft as the affairs of *England* requir'd their help, joyn'd them againſt the common enemy, ran the ſame hazards with them, endur'd the ſame fatigues, and were as much one body of men with them in the field, as if they had been all of one Nation. The *Engliſh* Hiſtorians make little or no mention of thoſe things,

whether it was, that living at a great diſtance from thoſe times, they were ignorant of what was done in them; (For what could the *Monks* of St. *Albans* or *Weſtminſter* know, of affairs paſs'd ſo long before in the North parts of *Britain?*) or if they neglected them, as things that they did not reckon themſelves concern'd in; I will not impute theſe omiſſions to Malice or Envy; but ſeeing thoſe writers flouriſh'd only, when the fierceſt and moſt deſtructive Wars raged between the two Kingdoms, 'tis not probable, that in their writings, they would tranſmit any thing to Poſterity, that was for the Honour of *Scotland*. But I ſhall bring one Teſtimony, which is ſufficient to over-balance all thoſe *Engliſh* writers, by which the things I have alledg'd, will appear to be moſt evident.

Divi Edwardi leges.

King *Edward* who was canoniz'd for a Saint, the laſt King of the *Engliſh Saxons* (unleſs *Harald* ſhou'd be reckon'd among them) being undoubtedly a moſt wiſe Prince, order'd the Laws of the *Engliſh* to be put into one Volume, and untill the Conqueſt they were the only Laws, which were us'd in *England*, and thoſe Laws, for their excellency meerly were call'd the *good Laws*, or the *Laws of good King Edward*, *Leges boni Regis Edwardi*. The Conquerour after his arrival in *England*, aboliſh'd all thoſe Laws, and made new Laws, and brought in *Norman* or *French* Laws, which he put in their ſtead: The people were exceedingly diſpleas'd and enraged at it, and it occaſion'd many Tumults and Seditions, whilſt the people preſs'd to have the Laws of good King *Edward* reſtor'd. The Conquerour being ſenſible, that theſe Laws were more for the benefit and intereſt of the people, than for enriching his Treaſury, could by no means be mov'd to grant their deſire, until at laſt at St. *Albans* he was obliged to promiſe them with a Solemn Oath, to give them back the ancient Laws of *England*, and eſpecially thoſe of St. *Edward*, and that he ſhould uſe no other Laws, they being the juſteſt and moſt equitable, and that he would appoint Judges, who for the future ſhould adminiſter Juſtice, according to thoſe Laws. That Oath was taken afterwards, by both his Sons *William Rufus* and *Henry*, and by King *Stephen* when they were Crown'd Kings of *England*, and by moſt Kings after them: And as oft, as the Kings had a mind, to ingratiate themſelves with the people, the firſt thing they offered at was a promiſe to aboliſh all other Laws, and to reſtore the Laws of *Edward*, and to make uſe of them only for the future, tho' as *Holinſhed* ſays, they never intended it.

Holinſhed *in the life of the Conquerour.*

The Statute of St. Edward *the Confeſſor for granting the* Scots *the privileges of the natural born* Engliſh.

Among thoſe Laws of *Edward*'s there is one, which clears the *Scots* from being foreigners in *England*, upon account of their former merits in the Wars againſt the *Danes*, and grants them the ſame privileges and immunities that the natural born Subjects of *England* enjoy'd. The words of that Law, are in a book entitul'd Ἀγχαιονομία, *Sive de priſcis Anglorum legibus*. 'Twas printed at London *Anno Domini* 1568. *Ex officina Joannis Daij*, and tranſlated from the *Saxon* Tongue into *Latine*, by *William Lambard*. Holinſhed alſo makes mention of this book in his Hiſtory. And firſt the Title of that Statute is to be conſider'd, 'tis this, *De illis qui poſſunt & debent de jure cohabitare, & remanere in regno Angliæ*. That is, *Concerning thoſe who of right are enabled and ought to Cohabite and to remain in the Kingdom of* England. For *debent*, is a word of Law, and infers Right; And *cohabitare in Anglia*, imports nothing leſs than to enjoy the ſame Laws and privileges with the *Engliſh* inha-

inhabitants. For otherwise were it to be understood barely of living, as that the *Scots* might dwell and remain in *Britain*, they cou'd not owe that to any Statute or favour of *Edward*, when as they had then liv'd in the Kingdom of *Britain*, by their own Right, and as Elder possessors long before the *English Saxons*. But the word *Britannia* is there taken for that part of *Britain*, which had been a Province of the *Romans*, as *Buchanan* observes, and is clear from many other writers, and especially from *Beda*, and follows plainly from the Text it self. Wherefore that title of the Statute respects those who are qualified to dwell together with the *English* in *England*, and to enjoy the same Laws and Privileges in common, as the Text it self manifestly shews.

Britones Armorici *in regno suscipi debent ac protegi sicut probi Cives. De Corpore regni hujus quondam prodierunt, de Sanguine Britonum.* Guti *vero similiter*, &c. *Exierunt enim & illi quondam de nobili Sanguine* Anglorum, *& Anglici de Sanguine illorum. Ita enim Constituit* Ina Anglorum *simul &* Britonum *in Insula manentium Rex. Cepit enim* Ina *in uxorem suam* Gualam, *propter quam vocata est* Wallia *illa terra, quæ quondam vocabatur Cambria*, &c. *Hoc enim factum fuit per commune consilium & assensum omnium Episcoporum & Principum, Procerum, Comitum, & omnium sapientum Seniorum & populorum totius regni, & per præceptum Regis* Inæ *prædicti. Multi vero* Angli *ceperunt uxores suas de sanguine & genere* Anglorum Germaniæ, *& quidam* Angli *cæperunt uxores suas de Sanguine & genere* Scotorum, *proceres vero* Scotorum, & Scoti *fere omnes de optimo genere & Sanguine* Anglorum

First, the Text says, *that they of* Britany in France, *ought to be receiv'd and protected in the Kingdom as good or true* (Citizens or Subjects) The word [*Cives* Citizens] deserves to be minded, as also the reason that's added, *For they formerly went out from the Body of this Kingdom, and are descended of the* Britons *in it. In like manner the* Jutes *are to be admitted as Citizens, For they also sometime ago descended of the Noble Blood of the* English, *and the* English *of their Blood.* (For the *Jutes* were one of those three Nations, which together with the *Saxons* made themselves Masters of *England.*) And therefore the *English* were not without reason said to have been descended of the *Jutes*. The reason is Subjoin'd in the Text, *For so* Inas, *who was King both of the* English *and* Britons *which remain'd in the Island, ordained, And because King* Inas *had for his Wife* Guala, *from whom that Country*, as they will have it, *which before that time had been called* Cambria, *got the name of* Wales: *And he ordain'd also that the* Britons *or* Welch *shou'd enjoy the same privileges, upon the account of their intermarriages. This was done by the common consent and advice of all the Bishops, and Princes, Peers, Nobles, and of all the wise Ancient men, and People of the whole Kingdom, and by the command of the aforesaid King* Ina. Then follows in the Text.

glorum

glorum, *& ita fuerunt tunc temporis per univerſum regnum Britanniæ duo in carne una. Et taliter conſtituit regnum Conjugium* (*& delevit fornicationem & invidentiam a regno*) *& recta Judicia pro Stabilitate Regni, & confirmatione populorum benigna ſedulitate facta. Et tali modo effecti fuerunt gens una & populus unus per univerſum Regnum* Britanniæ *miſeratione divina. Deinde univerſi vocaverunt regnum* Anglorum *quod ante vocatum fuit regnum* Britanniæ. *Univerſi prædicti ſemper poſtea pro communi utilitate Coronæ Regni, in ſimul & in unum viriliter contra* Danos & Norvegienſes *ſemper ſteterunt, & atrociſſime unanimi voluntate contra regni inimicos pugnaverunt, & bella atrociſſima in regno geſſerunt. Erat enim prædictus rex* Inas *optimus*, &c. *rexitque Eccleſiam, regnumque confederavit, conſolidavit & in unum pacificavit, ſapientia & prudentia magna, & ubi locus adfuit vi, & manu armata.*

But many of the Engliſh *had their Wives from the* Engliſh *in* Germany, *and ſome* Engliſh, *got Wives from among the* Scots, *but the Nobility of* Scotland *and moſt* Scots *men Married with the beſt of the* Engliſh, *and ſo at that time, throughout all* Britain, *they two became one Fleſh. And thus Marriage ſettled the Kingdom and Aboliſh'd Fornication and Hatred* or Grudges from it, and righteous Laws were made for the Eſtabliſhment of the Kingdom, and for Strengthening the People by a gracious carefullneſs. And by ſuch methods by the Divine mercy they became one Nation, and one People over all *Britain*. Afterwards all of them called that, the Kingdom of *England*, which before that time was called the Kingdom of *Britain*. All thoſe aforeſaid did ever afterwards ſtand Stoutly as one man for the common Utility of that Kingdom againſt the *Danes* and *Norvegians*, and fought with great Reſolution and Unainmity againſt their Enemies, and carried on the Wars againſt them with Vigour which can neither be meant of the *Britons* in *Britany*, nor of the Welch, nor of the *Jutes*, but only of the *Scots*. It follows in the Text; The ſaid *Inas* was a moſt Excellent King, *&c.* Governed the Church and united and Strengthned the Kingdom, by his great Wiſdom and prudence, as well as by War and Force of Arms, when there was an occaſion.

Theſe are the words of that Statute. And it is not ſtrange as to the *Welſh*, for tho' many may be ready to think that they cannot be excepted; ſeeing *Wales* is a part of the Dominions of *England*; yet at that time, namely in the Reign of *Edward* the Confeſſor, they did not acknowledge themſelves Subject to *England*, but infeſted it with almoſt continual Wars; ſo that it is leſs to be Wondered at, that that priviledge was granted to the *Scots*; ſeeing there were ſo many occaſions, which required their Aſſiſtance.

From

From the words of this Law, there are many things remarkable, that no doubt make for us; Firſt, becauſe the *Britons* in *Britanny are deſcended from the Body of this Kingdom, they therefore ought to enjoy the privilege of Subjects in it*; For by the ſame reaſon, *becauſe the Nobility of Scotland, and almoſt all other Scots men had Wives from* England, *and they again from* Scotland, *and they two are made one Fleſh*, which imports nothing elſe but that the *Scots* are joyn'd to them by mutual Alliances and Intermarriages, tho' formerly diſtinguiſh'd by deſignation, they alſo ought to enjoy and uſe, for the Future, the ſame privileges with the *Engliſh*. And ſo there was a mutual bond, and Intermarriage, ſuch as was between the *Albans* and the *Romans*, or between the *Romans* and the *Latines*. Or if an Example nearer Home, be more acceptable, that between the *Scots* and the *Picts*, in the beginning of both Kingdoms. And what leſs could the *Engliſh* Kings do to ſuch as were deſcended of them, than to Indulge them the Name and priviledge of Citizens? It follows in the text, *And they aboliſh'd Fornication, & invidentiam*, which words no man underſtands of that Fornication, which is committed by Perſons out of Wedlock, but of the Fornication of one Nation with another, or the taking away of ſtriſe and contention. *And brought in righteous Judgements for the Stability of the Kingdom*, that in caſe any controverſy ſhould afterwards ariſe concerning the Kingdom, they might be reckon'd as one Nation. For it follows, *& hoc modo facti ſunt gens una & populus unus miſeratione Divina per univerſum regnum Britanniæ.* By this means they are made one Nation, and one People, by the Divine mercy, throughout the whole Kingdom of *Britain*; as if he had ſaid that all the Nations, inhabiting within the whole Iſland are by the favour of God, ſo Combined and United together by a perpetual League and grown into one Nation, that they ought to be reputed as one Nation and one People, neither ſhould they afterwards be reckon'd Aliens by any different Law, from that of the People of *England*.

The meaning of that Statute of Edward *the Confeſſor.*

There is another clauſe added further, why the *Scots* ought to have the privileges of and be lookt upon as Subjects, to wit, for their great good Offices, done for the Advantage of the Crown of *England*, *quia ſimul & in unum contra Danos atrociſſime pugnaverunt*, becauſe as one man they Fought Fiercely and Couragiouſly againſt the *Danes* and *Norwegians*. It appears plainly from that Statute, that the *Scots* obtain'd the right of being Deniſons of *England*, at the end of the Wars, becauſe they in conjunction with the *Engliſh* had carried on the War Bravely, and with good Succeſs againſt the *Danes*, who at that time were Heathens and Enemies to the Chriſtian Religion: Or rather a common right was made for all the Subjects, within the whole Iſland of *Britain*. So the Ancient *Romans* gave the privileges and freedom of *Roman Citizens* to People, that had deſerved well of them. In like manner, there was a Friendſhip for Mutual Defence againſt their common Enemies, and a perpetual Alliance between the *Engliſh*, *Scots*, and *Welſh*. Theſe words ſeem to intimate as much, (*& facti ſunt una gens, unus populus in tota Britannia.*) As if perhaps any one of theſe Nations, ſhou'd be aſſaulted by a Foreign Enemy, all the three ſhould be obliged by a perpetual and endleſs League, to run together as one Nation and People, to the defence of their Allie and Neighbour, againſt the publick Enemy, as they wou'd do to quench the Flames of their common Country, if it was ſet on Fire.

Seeing then this Statute was enacted by a moſt Excellent King, with the conſent of his whole People, and eſpecially with the advice of all the Wiſe and Ancient men of his Kingdom, what unaccountable Frowardneſs muſt it needs be, to debarr us from the benefits of Civil Society, which we purchas'd with our Blood; and have us reckon'd Aliens to the priviledges of that State, which was Eſtabliſh'd and became a Kingdom, and was preſerv'd in that condition, by our Strenuous and Faithfull Aſſiſtance? For I can truly affirm, that the *Scots* aſſiſted the *Engliſh* Couragiouſly and Faithfully, in all their Wars with the *Danes*, and never made any League with the Enemy, tho' they were often Solicited to do it, with great promiſes and rewards. No man can ſay that ever the *Scots* moleſted the *Engliſh* with any Wars, as long as the Kingdom of the *Engliſh Saxons* laſted, as St. *Edward* witneſs'd in that Statute, and all the chief men of the Kingdom. Nay, they transferr'd the War from the *Engliſh*, and brought the Burden of it upon themſelves. For the *Danes* living nearer to *Scotland*, and finding it impoſſible to make the *Scots* break their Friendſhip with the *Engliſh*, and that whenever they invaded *England*, they had the *Scots* upon their back, they turn'd their Arms againſt the *Scots*, and had Wars with them, for the ſpace of two Hundred Years, with doubtfull event. In thoſe Wars two of our Kings *Conſtantine* and *Indulphus*, with above a Hundred Thouſand men were Slain; which loſs might have been ſav'd, and our Nation might have enjoy'd peace all that time, upon giving free paſſage through *Scotland* to *England*, or abandoning the *Engliſh*. And when *Canutus* had made himſelf Maſter and King of *England*, we mantain'd a War all that time, ſometimes againſt the *Danes*, and other while againſt the *Norwegians*, upon account of the *Engliſh*. Nor did the *Danes* and *Norwegians*, ever ſuffer the *Engliſh* to be at Eaſe, untill being driven out of *Scotland*, by the victorious arms of the *Scots*, they took an oath never to return to it any more with arms. And if they pleaſe to look back to that time, they may find that whilſt *Canutus* reign'd peaceably in *England*, three or four moſt bloody Battels were fought, between the *Scots* and the Brothers of *Canutus* and his Generals, and laſtly with *Sweno* the *Norwegian*, with all their forces; ſo as in the firſt battel King *Malcolm* was overcome with a great ſlaughter of his men, but afterwards having recover'd ſtrength and rais'd a good Army, he ran the laſt hazard, and was victorious in two battels. For thoſe great and good Offices to *England*, we had not only *Cumberland*, *Weſtmorland* and *Northumberland*, but that Statute alſo, by which we were made Deniſons of *England*. This will not ſeem new or ſtrange, to any who are acquainted with Hiſtory, to find men who have deſerv'd well of another Commonwealth, to be allow'd the freedom and privileges of it, as I have already ſhewn in divers Inſtances. For the *Athenians* beſtow'd the privileges of Citizens upon *Evagoras* King of *Cyprus*, *Dionyſius* Tyrant of *Sicily*, *Antigonus* and *Demetrius* Kings in *Aſia*. Thus were *Hercules* and *Alexander* the great, honorary Citizens of *Corinth*. Thus gave *Artaxerxes* to the Family of the *Pelopidæ*,* for their good Services, their Citizenſhip, as that they ſhould be reputed Subjects of *Perſia*, and enjoy the ſame privileges that the *Perſians* did[a]. The *Athenians* and *Rhodians* gave mutually to one another the *jura civitatis*. The *Latines* after long Wars concluded a peace with the *Romans*, the main Article of which was, That they ſhould enjoy their own Laws and Cuſtoms, and yet they ſhould be *Romans*, ſuch as leaving Lawful Children

The Scots *maintain'd an inviolate Friendſhip with the* Engliſh *and aſſiſted them againſt the* Danes *during the time that they infeſted* Britain.

And were made deniſons of England *by* Edward *the Confeſſor, and had* Cumberland, *&c. given them for their great ſervices to* England.

* *That Family was deſcended of* Pelopidas *a* Theban *Captain.*

[a] Plutarch in Pelopida. Liv. lib. 45.

dren at home, ſhould go to dwell in *Rome*. But if later examples be more acceptable, The *Scots* obtain'd the privileges of free Deniſons in *France*, by the ſame valour and the like merits. *Edward* III. by a publick edict, beſtow'd the freedom of *Engliſh* Subjects, upon all the people of *Britany*, and all the privileges of *Engliſh* Subjects. The *Helvetians* gave to *Lewis* II. the privilege of their State. And ſo the Aſſumption of that Syllogiſm is overthrown, ſeeing the *Scots* are reckon'd to have the privileges of the natural born *Engliſh*.

An Objection Anſwer'd.

But ſome, who are leſs juſt to us, will object, that the ancient Laws of *England* were aboliſh'd by the *Conquerour*, who brought in his own *Norman* Laws, and alſo made new ones for *England*, and ordered the Kingdom to be govern'd, and juſtice to be adminiſtred according to theſe, annulling the former Laws. I anſwer, that there was not any thing ſo much diſputed, between the Kings and People of *England*, as that buſineſs concerning the Ancient Laws of the Kingdom, was; For the Kings would never ſuffer them to be reſtor'd, tho' the *Conquerour* had ſworn to the Laws of *Edward* the *Confeſſor*, as did both his Sons *William* and *Henry*, and after them *Stephen*, *Henry* II. *Richard* I. *John*, *Henry* III. and his Son *Edward* I. we aſſert therefore that the Laws and Statutes of *Edward*, and eſpecially theſe which contain our privileges, remain ſtill in their full force. And beſides, that which makes more for us, is that the Conquerour himſelf did moſt certainly confirm that Law, as is evident from the Title and Inſcription of that Statute, as well as from the Text it ſelf. The Title is [*Leges boni Regis* Edwardi] *quas* Gulielmus Baſtardus *poſtea confirmavit*, *The Laws of good King* Edward, *which* William *the* Baſtard *afterwards confirm'd*. That Statute begins thus. *Poſt acquiſitionem* Angliæ, *præfatus Rex* Angliæ, Gulielmus, *anno quarto regni ſui, conſilio Baronum ſuorum fecit ſummoniri, per univerſos* Angliæ *conſulatus*, Anglos, *nobiles ſapientes & ſua lege eruditos, ut eorum leges & jura & conſuetudines ab ipſis audiret. Electi igitur de ſingulis totius patriæ Comitatibus viri duodecem, jurejurando coram Rege primum confirmaverunt, ut quoad poſſent recto tramite incedentes, nec ad dextram nec ad ſiniſtram divertentes, legum ſuarum, & conconſuetudinum ſancita patefacerent, nihil prætermittentes, nihil addentes, nil prævaricando mutantes. After the obtaining of* England, *the aforeſaid* William *King of* England, *in the fourth year of his Reign, by the advice of his Barons, ordered the* Engliſh *Noblemen, Wiſemen, and ſuch as were skilful in their own Laws, in all the Counties of* England, *to be ſummon'd, that he might know from themſelves, their own Laws, Rights and Cuſtoms. Then twelve men being choſen out of all the Counties of the Country, they firſt took an Oath before the King, that they ſhould truly and faithfully declare what Laws and Cuſtoms had been eſtabliſh'd among them, without either omitting, adding or altering them in any point.* For, as was ſaid, the ſame King being dayly importuned, to recall the Ancient Laws, and being deſirous to know, what thoſe Laws were, he ordered thoſe twelve perſons to be ſummon'd from the ſeveral Counties of *England*, and from the report they made, after they were ſworn, he pickt out ſome Laws which he ratified and confirm'd, and among theſe was that Law, which I have before inſerted, concerning the *Scots* being free Subjects of *England*. Wherefore, if Law and cuſtom deſerve any place or regard, the incapacity as being an alien or of foreign birth, cannot be objected, ſo much as to any private *Scots*-man, much leſs to them, who are deſcended of the Royal Blood of *England*, with regard to Succeſſion.

The Conquerour *confirm'd that Law, of admitting the* Scots *to the privileges of* Engliſh *Subjects.*

But

The Second objection. But ſome may ſay, That tho' for thoſe merits, that right of Citizenſhip was acquir'd in thoſe days, nevertheleſs ſeeing the *Scots* have ſo often offended againſt the *Engliſh*, and ſuch frequent Wars, bloodſheding and ravagings have interven'd with *England*, as the Provinces which they held of that Crown were rightfully taken from them, and ſo alſo that privilege of being *Engliſh* Subjects was for our deed and faults taken from us. For it's certain that the Rights or Privileges of common Society, are actually interrupted by Wars and Slaughterings, neither was any declaration in form of Law neceſſary in ſuch caſes.

Anſwer. I Anſwer, we ſhall not complain for taking theſe Counties from us, and perhaps the *Engliſh* may pretend reaſons, why they might be taken away; ſeeing the *Scots* could not enjoy them, without paying *Homage* for them, and *Homage* could not be perform'd by the King of *Scotland* without marks of great reſpect. And our Countrymen did not acknowledge any other Lord or Superiour, who could call them out of the Kingdom as he pleas'd, or oblige them to take or lay down Arms, and yet all theſe things are to be done in a Fee-Liege. Thus did the King of *England*, when he held *Normandy*, *Aquitain*, *Saintonge Poictou* and *Anjou*, own the King of *France* for his Sovereign, and put himſelf entirely in his will. Which imports as much, as that he Subjected himſelf to the pleaſure and Service of the King of *France*.

Et in ejus voluntate ſe totum poſuit.

Hoveden *and* Matth. Paris *in* Hen. ii. *and* iii.

But that privilege, which the *Scots* purchas'd at the expence of ſo much Toil, nay with their Lives, unleſs it were taken away by a ſpecial Statute, remains in force at this day. For this is a moſt certain rule in Law, that a privilege, which by Statute belongs to any perſon, or to any Nation, can never be taken away, by any general revocatory Statute, unleſs that ſpecial Statute, by which the privilege was granted, be revok'd by another Statute as ſpecial as the firſt was, which has not as yet been done.

Wherefore that Statute of *Edward* the *Confeſſor* continues to this day in it's full ſtrength, and whenever Peace was concluded after the Wars between the two Nations, it always reſtor'd and reſettled all things, in the ſame condition they were in before the Wars.

And truly was there place for complaints we have juſt ground for them, and may ſay that our Neighbours deal hardly by us, when they would reckon us Strangers and Aliens, and ſometimes oblige us to Petition for Acts of Naturalization, to make us free Subjects of *England*; when as we may be ſaid, to be as much Natural Subjects of *England*, as we are free Deniſons in *France*, neither ought that privilege, which was purchas'd with ſo much Blood and Merit to be taken from us, without ſo much as a fair Hearing or lawfull Tryal.

CHAP.

CHAP. V.

The King's Children are excepted by the expreſs Words of that Statute of Edward III. *And where-ever they be born they ought to Succeed their Anceſtors.*

THE chief occaſion of that Statute, that was made in the Reign of *Edward* III, as appears clearly from the words of the Statute it ſelf, was this: In the time of the Wars, which were hot between *France* and *England*, a Petition was preſented to the Parliament in the Fifteenth Year of *Edward*'s Reign, concerning them that were Born beyond Sea, whether they were to be admitted to Inherit any Eſtates within the Kingdom; which Petition not being at that time fully obtain'd, the Subjects were perplex'd in their minds with many doubts and ambiguities, and eſpecially with reſpect to the King's Children, how it ſhou'd fare with them. For ſeeing the King himſelf had Married a Stranger *Philippa* Daughter of *William* Earl of *Hainault*, by whom he had divers Sons, as *Leonel* who was born at *Antwerp*, *John* at *Ghent* who for that cauſe was called afterwards *John* of *Gaunt*, as all the reſt of *Edward* Third's Children had Sirnames, from the places of their Birth; They alſo had taken Wives for themſelves from Foreign Countries, and had Children by them: It came to be doubted whether or not theſe could inherit by Succeſſion the Kingdom of *England*. The Eſtates of *England*, which were in Parliament Aſſembled, being commanded to Deliberate upon this point, and to report their Judgment in it, the King being preſent and ſpeaking to them,

The fourth anſwer to the exception of Foreign birth.

All the Children of Edward iii, *whereſoever born or from whatſoever Province beyond Sea, they took them Wives, are excepted.*

All of them with one aſſent (theſe are the words of the Statute) *ſaid, that the Law of the Crown of* England *is, and always hath been ſuch, that the Children of the Kings of* England, *in whatſoever parts they be born, in* England *or elſewhere, be able and ought to bear the inheritance after the death of their Anceſtors: which Law our ſaid Lord the King, the ſaid Prelates, Earls, Barons and other great men, and all the Commons aſſembled in this Parliament do approve and affirm forever.*

And indeed it ſeem'd to be moſt unjuſt, that when Kings Married their Children either to the Sons or Daughters of other Princes, ſhou'd they, by that very deed, ſeem to diſinherit or proſcribe them. Neither could any thing more Foreign or abhorrent to their minds, be either fancied or ſaid. Whence I Subſume that that Law concerning *thoſe Born beyond Sea*, cannot be extended to the Children of *Magaret*, ſeeing ſhe was the Daughter of King *Henry* VII. and theſe Children demand nothing but the Inheritance of their Anceſtors or Predeceſſors.

Who are ſaid to be the King's Children, who Anceſtours.

But it is a moſt Sharp and warm diſpute, between our adverſaries and us, who are to be underſtood here as comprehended under that deſignation, of the *Kings Children*, and who are the *Anceſtours*, tho' the thing be moſt plain, nor could it be expreſs'd, in more clear words, or that could be more eaſily underſtood. Nevertheleſs that expreſſion (*The Kings Children*) ſeems to interpret theſe French words, (*Les Enfans du Roy.*) For formerly all the Statutes or Laws of *England* uſed to be expreſs'd in the *French* Tongue, and all their judicial Acts had much of the *French* Idiom, before this *Edward* III. who was the firſt that conſented that his *Engliſh* Subjects ſhould make uſe of the *Engliſh* Tongue, both in the Parliament, and in the Courts of Judicature, whereas before that time they expreſs'd themſelves in the *French*. In the *Latine* it's *Liberi* than which no word can be more proper, and our preſent diſpute turns upon the true meaning of that word. Our Countrymen, and ſuch of the *Engliſh* as are Lovers of Truth and Juſtice, underſtand by the word (*Liberi Children*) all deſcendants whatſoever, their immediate Children, Grand-Children, great Grand-Children, and their Children, and alſo farther degrees. But ſuch as are reſolv'd not to do us juſtice, aſſert that Sons only, and the firſt degree of deſcendants are only meant by it excluſive of their deſcendants. Now in this wide difference, or rather Diametrical oppoſition, whom muſt we believe, but the Lawyers, who give us the right meaning and interpretation of words, and what is comprehended under them, and who are univerſally approv'd of for it.

Who are ſaid to be Children.

Papinian[a] ſays, that under the word or appellation of *Liberi*, which is the Latine of the words *Children*, Grand-Children, great Grand-Children, and all that deſcend from them are contain'd. For the Laws of the XII. Tables, comprehend them all under that name. For as to what the Law ſays,

[a] L. Liberorum de verborum ſignificatione.

By the Laws of the xii. *Tables, all the Off-ſpring are called Children.*

In cognatione neceſſarium ſingulorum nominibus uti, veluti filij, nepotes, pronepotes, vel eorum qui ex his deſcendunt, quoties non omnibus eis, quibus præſtitum voluerit, ſed ſolum eis quos nominatim enumeraverit ſuccurrere cenſetur. At ubi non perſonis certis, non quibuſdam gradibus præſtatur, ſed omnibus ex eodem genere, hi omnes liberorum appellatione comprehenduntur. 'Tis neceſſary in Kindred (ſays he) *to mention particularly Sons, Grandſons, great Grandſons or thoſe who deſcend from them, when 'tis not intended to be perform'd to all in general, but only reckon'd to be for the benefit of them who are nam'd particularly. But when the Deed is not made in favour of certain perſons, nor confin'd to certain degrees, but extends to all deſcended of the ſame Stock, all theſe are comprehended under the appellation of* Children.

Let's then conſider the Words of this text; For the meaning of it is this, when Sons are named by the Law, and what the Law, by a ſpecial favour, beſtows on them, as Sons, the Benefit reaches no farther than to Sons. But when the Law is of Children in general, the benefit of it ex-

extends, not only to Grand-Children and great-Grand Children, but to all deſcendants of the Blood whatſoever *in infinitum*; ſo when the *Prætor* calls to the Succeſſion, *ex capite*, (whence the Children come,) all deſcendants *in infinitum* are comprehended, throughout the whole Civil Law, which at this day may be juſtly called the Law of Nations, ſeeing all civiliz'd Nations make uſe of it at this day. Thus *Ulpian* expreſly affirms that under the appellation of *Liberi*, not only ſuch Children as are in the Power of their Parents, but thoſe alſo who are *ſui juris*, whether Males or Females, nay ſuch likewiſe who are deſcended of either, [b]. are comprehended.

Nay if happily in that Statute of *Edward* III. That clauſe about the Succeſſion of the Royal Off-ſpring, had been conceiv'd in ſuch words as theſe, *The Kings Sons are to inherit after their Anceſtours, whereſoever they be Born*, if I ſay the word *Sons* had been put inſtead of that of *Children*, 'tis clear from the Law, that that word does not only extend to the firſt degree of Sons, but to all deſcendants whatſoever: In that caſe, *Papinian* has ſaid, from the Laws of the XII. *Tables* that all deſcendants are comprehended under the appellation of *Sons*. And what is more ancient than thoſe Laws? Again *Paulus* ſays that by the word *Sons*, all children, and even Grandſons are underſtood [a], which is demonſtrated by two moſt evident examples from the Law. For if a female pupil is forbidden to be married to her Tutor, or to his Son, ſhe cannot be ſo much as married to his Grandſon [b]; For the ſame reaſon, leſt the Pupil ſhou'd be circumvented or cheated, in the buſineſs of her Eſtate or Patrimony, and leſt the Tutor, by the fraudulent means of that marriage, ſhould be excus'd from accounting for his defaults: Nay which is more, he cannot give her in marriage to his Baſtard, for the ſame reaſon ſtill, tho Baſtards are not reckon'd Sons [c].

The ſecond example from the Law, is in Legacies bequeath'd: For he who bequeaths to his Son Lands, with a Bayliff or Steward, and to his *Sons*, the Grandſons alſo of the Steward are comprehended under the word *Sons* [d]. For the provident Maſter of the Family, ſeems to have meant that of Grandchildren alſo, which he granted in favour of *Sons* [e]. Certainly the meaning of that word, tho the Statute had ſpoken only of *Sons*, is extended by all that ever wrote upon the Law, to all deſcendants whatſoever, as is alſo any privilege beſtow'd upon any man, and his Sons, extended to Grandſons, unleſs that privilege be *odious* [f], that is, unleſs it be contrary to the natural Law, the Law of Nations, or the civil Law [g]. Yet I ſhall not deny but that ſometimes in Law, Grandſons are not comprehended under the word *Sons*. As when tutors are given to Sons, they are not reckon'd to be given to Grandſons, neither are Grandſons in that caſe, comprehended under the deſignation of Sons [h]. But it is eaſy to Solve this difficulty, for the giving a tutor is of ſtrict Law, but the word in the Statute is not *Sons*, but *Children*. *Bartolus* uſes this diſtinction, and *Alciatus* alſo after him, as whenever a Statute or Law grants any thing, or if we ſpeak of what the Law or Statute diſpoſes of or beſtows, the word Son extends then to Grandſons, not only *in favorabilibus, ſed etiam in odioſis*. But in a *mans* diſpoſition or grant, where a *man* grants any thing, as if a Prince ſhould give ſome privilege to *Titius* and to his *Sons*, that privilege reaches not to the Grandſons of *Titius*: whoſoever deſires more in this queſtion may read *Bartolus* and *Alciatus* [i].

But

[b]. L. cognoſcere in fin. de verborum ſignificatione.

[a] L. filii de verborum ſignificatione.

[b] L. Senatus conſulto de ritu nuptiarum.

[c] L. libertum §. ſenatus conſult. de ritu nuptiarum. L. penult. & L. libertum, de interdicto matrimonio inter pupillum & tutorem.

[d] L. liberorum §. ſed & Papyrius de verbor. oblig.

[e] L. filium ad S. C. Macedonianum.

[f] Bartol. in L. liberorum F. de verborum ſignif.

[g] L. Maximum vitium antiquitatis de liberis præteritis.

[h] §. fin. Inſt. qui tutores teſtamento dari poſſunt.

[i] Diſtinctio Bartoli.

[a] Bartol. in d. L. liberorum & L. filij. de verb. ſignif. Alciatus lib. 3. paradoxon c. 14.

But I have thoſe, who fooliſhly, not to ſay impudently wreſt the ſignification of the word *Children* from its true importance, ſo entangled and fetter'd, as that it ſhall not be poſſible for them to find a way to eſcape. 'Tis certain that *Children* in that Statute are, as *correlata*, oppos'd to *Anceſtors*: where it's ſaid Children *are and ought to Succeed in the inheritance of their* Anceſtors, or let them tell us, what they underſtand by the word *Anceſtors:* For no doubt but ſuch as went before, the *Children*, are meant by that word, ſeeing anteceding is nothing elſe but preceding or going before, as on the contrary, Succeeding is coming after, unleſs perhaps there be ſome who will have the word *Anceſtrie* to be deriv'd from *ancient*, or antiquity, a Criticiſm that I ſhall not grudge them. Howſoever 'tis certain, that Parents and Forefathers are ſignified by that word; which neceſſarily inferrs the ſignification of this word (*Enfans*) So as that all deſcendants are called *Children*. For unleſs all lawful deſcendants whatſoever be called *Children*, how ſhall all the aſcendants be called *Anceſtors* or Forefathers. Seeing *Children* and *Anceſtors*, as was ſaid are *correlata*, that is they reſpect one another and are to be taken in a reciprocal ſignification. For in the Brieves which are called the Brieves of *Mort Anceſtry* * *Children* are not only allow'd to demand their Paternal or Maternal Inheritance, but alſo the inheritance of whatſoever *Anceſtors* whether Grandfathers, Great Grandfathers, or the great Grandfather's great Grandfather. But if *Children* ſignify nothing beyond the firſt degree of Conſanguinity, then the word *Anceſtors* or Forefathers cannot be extended farther than to Parents that is to Father or Mother: which is not only againſt common ſenſe, but alſo againſt the receiv'd Law of *England*, by which all Forefathers are comprehended under the word *Anceſtors*. The words of that Statute, therefore are to be taken ſo, as that the *Kings Children* or their deſcendants of what degree ſo ever they be, *are, and ought to inherit after their Anceſtors* or Forefathers, by how many degrees ſoever they have preceded them. Moreover the latine Authors underſtand by the word *Majores*, which we render *Forefathers* or *Anceſtors*, not only Parents, but likewiſe, Grandfathers, great Grandfathers, and whoſoever preceded the Father in a ſtraight line, or anteceded him. And they are all reckon'd Parents, as *Ulpian* ſaid [b]. *Take here*, ſays he, *the Parents of both Sexes.* But it's a queſtion, whether this appellation of Parents, ſhou'd be given to all in ſtraight line from the beginning of Mankind; ſome ſay they are called Parents to the great Grandfathers Father, but thoſe above him are called *Majores*. *Pomponius* tells us, that the ancients were of that opinion. But *Caius Caſſius* called all our Forefathers *in infinitum*, Parents, which way, as being more decent and honeſt, was deſervedly followed. And ſo, as the Gloſs ſays, *Parentes & liberi in infinitum dicuntur*, they are called Parents and Children from and to all Generations. And conſequently the moſt ſerene King of *Scotland*, is rightly reckon'd among the *Children* of *Henry* VII, and by the Common Law *Henry* VII. is rightly called his Parent, and reckon'd among his *Anceſtors*.

But they who maintain the contrary opinion, may ſay, that they are not obliged by the Civil Law, which we call the Common Law, and that they make no uſe of it as of a Law; that they only have municipal Laws, and are to conform themſelves duly to them. And truly were the controverſy only concerning Law, there might be room for this objection, but here it is meerly concerning the Senſe and interpretation of one word,

Who are meant by Anceſtors *or* Forefathers.

Ab antiquitate.

* *In* Scotland *theſe Brieves are iſſued out of the Chancery, and directed to the Sherif of the Shire, in which the Eſtate lies, for taking knowledge of the Lands wherein the predeceſſor of the party who is to be receiv'd lie, how they hold, for what ſervice, how long in* Non-entry, &c.

[b] L. 4. §. Parentes de in jus vocando.

word, and where can we have our recourse but to the common Law? That we may follow that meaning of it, which the word signified in all Ages past and among all Nations, and what all Learned men have understood by it; and I think what has appear'd Just and Reasonable to the Lawyers of all Ages is not to be Slighted. Or if our Adversaries themselves have any other way of rendring that word, so as that (*Les Infans du Roy*) may Signify any thing else, but *Liberi Regum, the Kings Children*, let them bring it.

The meaning of the word [Children] in the sacred Scriptures.

But if the meaning of the word may be taken from the Sacred Scriptures, what is meant by the word *Children* may be easily learn'd from the *Decalogue* of *Moses*, where the Lord Threatens *to visit the Iniquities of the Fathers upon the Children, to the Third and Fourth Generation of them that hate him, but he will shew mercy to Thousands of them that love him, and keep his Commandments.* When the *Gibeonites* requir'd Seven of *Saul*'s Sons, whom they were resolv'd to Hang before the Lord in Revenge for the Barbarous Cruelties which *Saul* had committed upon them : *David* order'd two of *Saul*'s Sons, and his five Grandsons by his Daughter *Michal*, which she had Born to *Adriel*, to be deliver'd to them, and it follows in the Text, *but* David *spared* Mephibosheth, *the Son of* Jonathan, *because of the Lords Oath that was between them*, And for the Love and Memory of his Father *Jonathan*. But neither *Mephibosheth*, nor the five Sons of *Michal* were Sons but only Grand-Sons of *Saul*: And consequently the Name of Sons in Holy Scripture, is not only extended to the First degree of descendants, but also to Grand-Sons. Moreover when our blessed Lord said, that the *Childrens Bread*, that is the Bread of the Children of *Israel, is not to be taken and cast to the Dogs*, did he mean this of *Jacob*'s Sons only, and not of his Grand-Sons, and of all descended from them? Or when he himself is called by the *Canaanitish Woman* the Son of *David*, was that to be understood in the first degree, or after many descents? 'Twere endless, should I cite all the places in holy Scripture for the Interpretation of this word, in which the appellation of *Children*, is never given only to those who are of the First degree exclusively of remoter descents. One thing I may confidently assert, that the *English* Translators, when they put the Bible into their own Tongue, and when they render *Posteri* or *Descendentes* can use no other word to express that, but *Children*, nor the *French* but *Enfans*; And in the Translation, of the Bible, the utmost candor, fidelity and uprightness must be always shew'd, as in an affair wherein the Salvation of all is concern'd, and which cannot be violated by any corrupt Interpretation, without detestable Impiety. But I shall not insist any longer, on a matter that is in no wise to be doubted of. I answer therefore to the proposition of this Syllogism, that it is not true as to descendants from a King, and consequently, it does not invalidate, as we speak at the Bar, the Right of the most Serene King.

Exod. xx. v.

It extends to Grandchildren, and to all descendants

2 Sam. xxi.

CHAP. VI.

By the Words of the ſame Statute, and conſtant cuſtom, ſuch as were born out of the Ligeance of England, *and even beyond Sea, have been admitted to inherit the Crown, and ought to be admitted to their Inheritance.*

The fifth Anſwer to the exception of foreign birth.

THE Statute by which the Kings *Children* whereſoever Born, are declar'd to have a right to Succeed their Anceſtors, was only made by *Edward* III. But 'tis to be conſidered, that in that Statute it is not only provided for the future, that they ſhall and ought conſtantly to Succeed, but it is alſo *Juris declaratoria*, a Declaration of their right, that ſuch was the Law of Succeſſion to the Crown from the beginning, and and now is, *and always hath been ſuch, that the Children of the King, &c.* This cannot be underſtood of any written Law, ſeeing there was not any ſuch: But only of conſtant cuſtom, which has the ſtrength of a Law, and is confirm'd by that Statute, as if it had been thus expreſs'd: It obtain'd by conſtant cuſtom, that the Succeſſion of the Royal Family, belong'd to the Children deſcended of it, whereſoever born, which cuſtom became the Law of the Kingdom. Which makes me the more admire the obſtinacy of ſome men, who are not aſham'd to aſſert, as a moſt firm maxim or axiom, that no man born any where but in *England*, ought to be admitted to any Succeſſion in it.

The Statute of Henry viii. *concerning the Kings Succeſſion.*

In the laſt Statute of that Parliament, which *Henry* VIII. held in the Twenty fifth year of his reign, there is a more full declaration, concerning the Succeſſion in theſe words,

> Firſt, *the Imperial Crown ſhall be to your Majeſty, and to your Heirs of your body Lawfully begotten, that is to the firſt Son, then to the ſecond, and ſo to every Son, and to the Heirs of every ſuch Son begotten, according to the courſe of Inheritance* &c. *And for default of ſuch Sons, and their Heirs, That then the ſaid Imperial Crown, ſhall be to the iſſue female, the Lady* Elizabeth, then Princeſs and now Queen, *and to the Heirs of her Body lawfully begotten. And for default of ſuch iſſue, then to the ſecond iſſue female, and to the Heirs of her Body lawfully begotten, and ſo from iſſue female to iſſue female, and to the Heirs of their Bodies one after another, by courſe of Inheritance, according to their ages, as the Crown of* England *hath been accuſtom'd and ought to go, in caſes when there be Heirs females to the ſame. And for default of ſuch iſſue, then the ſaid Imperial Crown, and all other the premiſes ſhall be in the right Heirs of your Highneſs for ever.*

This

This is taken out of the Statute word for word. This Statute was confirm'd by another Parliament the next Year after, and all the Subjects were obliged to take an Oath, to obſerve the aforeſaid Statute, and to maintain and defend the ſaid Act in all the particulars of it, with relation to the Succeſſors of the Crown, as the moſt certain rule of Succeſſion for the future. When therefore all deſcendants of the Body of *Henry* VIII. fail, he wills the Cuſtom in the Succeſſion of the Crown, to be obſerv'd in other Succeſſors, ſo as they that are next, ſhall be called to the Succeſſion of it, according to Cuſtom. But by the cuſtom of Succeſſion to the Crown of *England*, the next in Blood whereſoever Born, was always receiv'd as readily as if he had been Born in *England:* which ſhall be fully made appear, to have obtain'd by conſtant uſe and cuſtom, from the Examples and Authorities of the Kings themſelves. And to take no notice in this place of *Sweno*, *Canutus* and others, who were before the Conqueſt, we ſhall begin with the *Conquerour* himſelf.

For tho' the Conquerour acquir'd a right to himſelf by his arms, yet he owns in the Laws made by himſelf, that he had the Crown of *England*, by the will and appointment of his Couſin *Edward* the *Confeſſor*; and by right of Succeſſion, as being his Kinſman, as *Hollinſhed* ſays, he came to ſway the Sceptre of *England*. Now to avoid contention, ſuppoſing that to be true, can any man be ſo void of reaſon as to believe that ſo wiſe a Prince as *Edward* was, would have appointed him to be his Heir, who by the Laws of the Country could not be receiv'd as ſuch, when as the *Conquerour* was born in *France*? Was *Edward* ignorant of the Laws of his own Country? Nay he was throughly acquainted with them, as one that not only knew what Laws his predeceſſors had made, but alſo as being himſelf the Author of many excellent Laws, ſo that many tumults were rais'd againſt the *Conquerour*, and his Sons, untill he and they promis'd to reſtore again to the People, the Laws of this King *Edward*, which he had aboliſh'd. So it is not likely, that he wou'd have made him his heir, by his will, who he knew cou'd not be admitted as being born out of the Kingdom. For that general *Maxim* of the common Law took place in *England*, long before the days of *Edward*, as *Holingſhed* bears witneſs; and it is not very likely that the *Conquerour* would have pretended a right to that Kingdom, to which he knew that they who were born out of it, could not ſucceed in it, nor could inherit it. For both *William*'s Parents were *French*, and he himſelf ow'd Allegiance to the King of *France*. So he was the firſt King who by both Parents, and by his Birth was a Foreigner. *Rufus*'s caſe was much the ſame, for he was not born in *England*, nor in any of it's territories, but of a Father and Mother who were born elſewhere, or Subjects of another Prince, and out of all the territories of *England*. The ſame may be ſaid of *Henry* I. For tho' he was born in *England*, yet he was of Foreign Parents, who were not Subjects of the King of *England*. For if any are born of *French* Parents, who have left their Country, tho' they be born in *England*, they do not enjoy the ſame privileges with the *Engliſh* Subjects. Neither does it avail them, that *William Rufus* and *Henry* I. were his Sons, who was King of *England*, ſeeing a King is not a Subject to himſelf, neither owes he Allegiance or fealty to himſelf, and the Statute, as they will have it, is generally extended to them who owe not allegiance, which the King does not owe, nor can he perform it to himſelf. King *Stephen* comes next, who was Son to the Earl of *Blois* and *Chartres*, by *Adela* or *Alice* Daughter to the *Conquerour*, both his Parents

In ἀρχαιονομίᾳ.

Lib. 2. deſcriptionis Britann. tit. de jure & legibus.

The Conquerour tho' a Frenchman by both his Parents, yet pretended a right to inherit the Crown.

2 Rufus.

3 Henry I.

4 Stephen.

Parents were *French*, and Subjects of the King of *France*. 'Tis to no purpoſe to ſay that he was an Uſurper, and got the Kingdom by Violence; For he pretended to a right of Succeſſion, all the Sons of *William* the Conquerour having fail'd; for at that time *Henry* I. was dead, and both his Sons had been loſt in a Storm at Sea; And tho' *Henry* had left a Daughter *Maud* the *Empreſs*, yet *Stephen* when the Succeſſion devolv'd to females, thought that he deſerv'd to be preferr'd, as being the firſt Male, and at that time no ſmall regard was had of the firſt Male, in the Succeſſion by females. *Robert Bruice* among us, did afterwards claim a right to the Kingdom of *Scotland*, upon that account, and about four and twenty years ago, *Philip* King of *Spain*, as being the firſt Male of thoſe who were deſcended of *Emanuel* King of *Portugal*, thruſt out the Dukes of *Parma* and *Braganza*, as *Doleman* teſtifies, when otherwiſe they were both deſcended of a Son, and *Philip* only by a Daughter. Howſoever it was, *Stephen* was true King of *England*, and was Crown'd by the Arch-Biſhop of *Canterbury* as lawfull heir of the *Conquerour*, and receiv'd and own'd as well by the Eccleſiaſtical as Temporal Peers, and was never reputed an unlawfull King; Nor were his Acts, deeds or grants ever reſcinded, or reckon'd unlawfull; nay what is more, the matter was agreed between him, and *Henry* II. by a treaty, and *Henry* was adopted by *Stephen*, his own Son *Euſtathius* being dead, by which adoption *Henry* II. took alſo to himſelf a right of Succeſſion from *Stephen*. He was the fourth Lawfull King of *England*, that was of Parents who were foreigners.

5 *Example in* Henry II.

Henry II. is the next example, The *Engliſh* themſelves cannot deny that he was lawfull heir of *England*, and that he came to the Crown by right of Succeſſion, tho' a *frenchman*, and the King of *France*'s Subject. *Galfridus Plantagenet* Earl of *Anjou* was his Father, who was married to *Maud* the Empreſs. Nay if we will ſpeak properly, *Maud* his Mother was not then an *Engliſh* woman, for tho' ſhe was born in *England*, yet by her Marriage with the *Emperour Henry* V. ſhe was to be reckon'd of his Family. Howſoever, 'tis certain that *Henry* II. was begotten by a Subject of the King of *France*, and born without the Juriſdiction and Ligeance of *England*; and ſeeing lawfull Children are in, or follow the condition of their Father, and Baſtards that of their Mother, *Henry* himſelf when born was a Subject of the *French* King, and ow'd him Allegiance. How eaſily might his right have been overturn'd by *Stephen*, during the Wars between him and *Henry*, for tho' as next in Blood, he Succeeded to his Grandfather *Henry* I. and ſeem'd to be neareſt by Succeſſion, yet he was diſabled from Succeeding to the Crown, as being born out of the Juriſdiction of *England*? Or how eaſily might *Henry* II. have turn'd this againſt *Stephen*, who was born beyond Sea, and for that reaſon, excluded him from inheriting the Crown, as being a foreigner by both Parents? How eaſily might the Nobility of *England* have renounc'd them both, and affirm'd that neither one nor t'other had the right of Succeſſion, as being both foreigners, and born of foreign Parents, who were Subjects of other Kings. And yet it was never heard, in all the time of that bloody civil War, which laſted near twenty years, that either *Stephen* objected *foreign birth* to *Henry*, or *Henry* to *Stephen*, or that any Subject of *England* reproach'd either of them, upon account of their not being born within the territories of *England*. Had the people diſcover'd any ſuch incapacity then, it had without all doubt, been

Sequantur conditionem patris.

laid

laid in their diſh; ſeeing neither of them were very acceptable to the people. Let this example then of *Maud* hold good for our cauſe, and as ſhe when alive transferr'd the Inheritance on *Henry*, ſo has *Margaret* alſo the Daughter of *Henry* VII devolv'd the right of Inheritance on King *James*. Let us now go on to others.

Henry II. as I ſaid, had five Sons, *William* and *Henry* who died before their Father, *Richard* who Succeeded him, and *Geoffry* who married the Heireſs of *Britany*, by whom he had two Children, to wit *Arthur* Duke of *Britany*, And *Eleonor*. *John* was *Henry*'s fifth Son, who Succeeded his Brother *Richard* in the Kingdom. *Richard* and *John* were born in *England*, yet not of an *Engliſh* Father, but one of *Anjou*, who ow'd neither Allegiance nor Homage to *England*; which no man, as I ſaid, can owe to himſelf. Howſoever, *Richard* when King being to go to the *holy War*, and being deſirous to ſettle the Succeſſion of the Kingdom, he reſolv'd with himſelf to name a Succeſſor, and he did nominate his Succeſſor, in caſe he himſelf ſhould die in that expedition againſt the Infidels, or leave no Children behind him, and order'd that *Arthur*, the Son of his next Brother *Geoffry*, ſhould ſucceed, as reaſon and juſtice did require. For *Geoffry* was elder than *John*, and was dead; therefore this *Arthur* was approv'd of, as the rightful Succeſſor by the conſent of all the Eſtates of the Kingdom. The Noblemen and others might have objected, or if they would not yet *John* who was born next to *Geoffry*, and who at that time aſpir'd to the Kingdom, without ſticking at any crime that lay in the way of his ambition, this *John*, I ſay, might have objected, that *Arthur* cou'd not be deſign'd Succeſſor in the Kingdom, when the common Law was againſt him; For neither by that general maxim, can any man Inherit the Kingdom, who was born out of the Dominions or ligeance of the Crown of *England*, and *Britany* was a Fief of the Kingdom of *France*, and ow'd no homage to the King of *England*. But neither *John* nor the reſt of the Lords objected any ſuch thing, which certainly they had not omitted to do, if being born out of *England* had prejudiced ones ſucceſſion to the Crown. And this *Richard* was a great lover of juſtice, and being to undertake a journey for making war in a Country vaſtly diſtant from his own, it is not likely, that he would have acted contrary to the Laws of his own country, or ordain'd any thing in the affair of the Succeſſion that was againſt his own conſcience. At laſt *Richard* dying in *France*, his Brother *John* ſucceeded him, who tho' he was born within the allegiance of *England*, yet was he guilty of a much more heinous crime, than that of being born in another Country; For having taken both the Children of his Brother in *Normandy*, he either kill'd them himſelf, as was reported, or took care to have them put to Death. All rights divine and humane, as many think, and all Laws, nay and laſtly reaſon it ſelf, debars him from Succeeding, who acquires it by a crime; For no man ought to reap advantage from his own crime, nay not from his own Cozenage. Neither can a Son who kills his Father, or a Brother who kills his Brother in hopes of inheriting it after them, be admitted to that Succeſſion, which they purchas'd with the horrid crimes of Parricide or Fratricide. But ſuch is the prerogative of the blood Royal, that it admits in it ſelf no blemiſh or impediment, nor tranſmits any to poſterity; of which I ſhall give the reaſons afterwards. Wherefore tho' this *John* was one of the worſt of men, and govern'd the Kingdom, which he attain'd by the worſt of crimes very ill, for he loſt almoſt all the Provinces beyond Sea; yet he did not de-

Arthur *notwithſtanding he was born out of the Juriſdiction of* England, *was declar'd Succeſſor to the Crown of* England.

Richard *1ſt's judgment of them that were born out of* England.

rive the crimes committed by him, nor the conſequences of them unto his Poſterity.

Let us ſee then, if in the time of this *John*, ſuch a cuſtom or maxim took place, as excluded the Heirs of the Crown, on account of their not being born within the Juriſdiction of *England*. 'Tis moſt certain that this King *John* was for the unhappineſs of the Kingdom, and of his life, and other groſs faults, abhorr'd by all his Subjects; and the Barons conſulted of chuſing a new Succeſſor. But then in that Succeſſion the common Law was to be obſerv'd, to wit, that no Foreigner ſhould be nominated. For our adverſaries affirm, that the Laws did not permit, that any foreign Prince, or any born out of the allegiance of *England*, ſhould be called to the Succeſſion. But yet the Noblemen and Barons did not mind that cuſtom or maxim, as well knowing, that no ſuch maxim had place, in the Succeſſion of the Kingdom; but they called *Lewis* the *Dauphin* of *France* to the inheritance of the Kingdom, in the place of *John*, as being neareſt to *John* by his Lady. For this *Lewis* had *Blanch* Daughter to *Alphonſus* King of *Caſtile* for his Wife, who was Niece to *John* by *Eleonora* his Siſter, to whom the Succeſſion of the Kingdom did truly appertain, if *John* and his Heirs had been expell'd. So that maxim was no obſtacle to their calling *Lewis* with his Wife, who was born in *Spain*, to the Succeſſion of the Crown; nay moſt of the great Men of the Kingdom, promis'd and even took an Oath of fealty to him, as their Lawful King, which it cannot be preſumed they would have done, had there been any ſuch Law or cuſtom, as excluded all that were born out of *England*, from Succeeding to it. But *John* dying at that time, the Nobility thinking it unjuſt to Puniſh the Son for the Father's faults (for the Sins of Fathers are not to affect their Children,) knowing alſo the Prerogative of the Blood to be ſuch, as that it cannot be Tainted nor admit into it ſelf any Blemiſh, tho' *John* was moſt unworthy of the Kingdom, yet the great men of the Kingdom alter'd their meaſures, made a total defection from *Lewis*, and own'd King *John*'s Son *Henry* III, for their King, who indeed became a great Prince.

In the time of King John, *ſuch as were born without the dominions of* England *were to be admitted to inherit the Crown.*

To him Succeeded *Edward* I. neither was he born within the Ligeance, for a man cou'd not owe Homage or Allegiance to himſelf; and to him Succeeded *Edward* II. who, if we ſpeak truly, was not born in *England*, nor within any Territories ſubject to the Crown of *England*; for he was Born at *Carnarvan*, a Town in *Wales*, but at that time *Wales* was not annex'd to the Crown of *England*, and they had Princes or Soveraigns of their own, who were Independent, and acknowledged no Superiour. Our Neighbours if they pleaſe, may read *Caradocus*, a *Welch* Hiſtorian, who writes that *Wales* was not annex'd to the Crown or Dominions of *England* until this *Edward* was born, nor had ever acknowledged the King of *England* for its Soveraign or Liege Lord, but only a *Welſhman* and one born in *Wales*, for their Prince; and yet being overcome by the King of *England*, they yielded to his Government. Wherefore when *Edward* I. had called his Queen to *Carnarvan*, that ſhe might be deliver'd there, and ſhe had brought forth her Son *Edward* II. in that place, he by a *Thracian Commentary* pretended that he ſhou'd give them no other than a *Welſh-man* born in *Wales* to be their Prince, and who knew no *Foreign* Language from that of *Wales*, whether *Engliſh* or *French*. By that pretext, he put his Son upon them for their Prince, whilſt he was in the Cradle. So this *Edward* II. tho' born in *Wales*, which at that time

of Edward I. *and* II.

time was not within the Jurisdiction of *England*, did Succeed his Father. I know not where *Edward* III. who Succeeded his Father, that had been born at *Carnarvan*, was born, yet it might be, that he was born in *France* at his Grand-Father's by his Mother: And if he was born by *Isabella* Daughter to the King of *France*, whilst she continued the first year after her Marriage with her Father, ought he for that reason to have been excluded from the Crown of *England*, as being born in *France*? No man in his right wits can affirm such a thing. Howsoever, by dethroning his Father he became Guilty of a greater Crime (for I shall never believe that he was Privy to the Murder of his Father,) and so by all Laws both Divine and Natural, he was to be debarr'd from Inheriting the Crown, which he had so unfairly acquired, even *Doleman* himself being judge, who asserts that *Henry* I. and *John*, as having unjustly mounted the Throne of *England*, rendered themselves and their Posterity unworthy of that Succession, and deserv'd to be depriv'd of it. And yet this very *Edward* III. became the most Powerful and famous Prince of all the Kings of *England*.

Edward *third's judgment concerning the heirs of the Crown born out of* England.

What his Judgment was concerning them that were born out of the Jurisdiction of *England*, with regard to the Succession of the Crown, tho' it be clear enough from that Statute which he himself made, yet he declares it more fully by his own Practice. He had five Sons, the Eldest of which was *Edward* called the Black Prince, who having Married a Wife out of a Foreign Family, had his first Son born by her at *Angouleme* in *France*, who dyed in his Infancy, and his Second by the same Lady was *Richard* II. who was born at *Bordeaux*, *Lionel* who was also born at *Antwerp*, which is not within the Jurisdiction of *England*, was the Second Son of *Edward* III. who Married *Violet* Daughter of *Galeazzo* Duke of *Milan*, of whom he had a Daughter *Philippa* who as I think, was born in the *Milanese*. For I do not Read where this *Philippa* was Born, nor that *Lionel* return'd into *England* soon after his Marriage. His third Son was *John* of *Gaunt*, who was born in that Town without the Territories of *England*, and afterwards Married *Constantia* Daughter of *Peter* King of *Castile*, by whom he had a Daughter *Catharine*, born within the Jurisdiction of a Foreign Prince, to wit, in *Aquitain* which ow'd no Homage to the King of *England* as it's Liege Lord. *Edmund* Duke of *York* was his Fourth Son, the Daughter and Heiress of the Earl of *Flanders* was promis'd him in Marriage, and the matter agreed, tho' she was afterwards Married to the Duke of *Burgundy*, and he the said Duke of *York* Married the other Daughter of King *Peter*. The fifth was *Thomas* Duke of *Glouceſter*, who Married the Duke of *Berry*'s Daughter. I have been the more particular in this matter, that our Neighbours of *England* may be Satisfied, that when *Edward* III. Married all his Sons out of the Country, he could not so much as think, that their Posterity should therefore be defrauded of their Succession to the Kingdom of their Ancestors. And the event in *Richard* II's Succession, who was born in *Bourdeaux*, that was a Fief of *France*, and was Son of the black Prince deceas'd, the Eldest Son of *Edward* III. is a further confirmation of this point, for notwithstanding his being born out of the jurisdiction of *England*, he Succeeded his Grandfather in the Kingdom: And tho' *Aquitain* belong'd at that time to the King of *England*, yet Prince *Edward* ow'd Allegiance for it to the *French* King, and actually perform'd it to his Liege Lord on account of that Province: Nevertheless

Richard ii. *born at* Bourdeau's *and consequently he was born elsewhere out of* England.

theleſs theſe things were no hindrance to *Richard*'s Succeſſion to his Grandfather.

In that *Richard*'s caſe three things are very remarkable as to the point in hand, Firſt that the word *Children* extends farther than to Sons, or deſcendants in the firſt degree. For he was Grandſon of the King his immediate Predeceſſor. Secondly he was admitted to the Crown after that Statute of his Grandfather, tho' he was born elſewhere out of *England* and beyond Sea. This is a clear proof that the Kings Children, Grand Children, great Grand Children and others more remote, are not to be debarr'd from their Succeſſion to the Crown, whereſoever they be born. Thirdly he did Succeed after that Statute took place. For ſome of our Neigbours alledge againſt us, that it cannot be prov'd by any example, after that Statute of *Eaward* III, that any born elſewhere out of *England* or beyond the Sea, was ſuffer'd to Succeed to the Kingdom. But when *Henry* IV. objected many trifling offences againſt this *Richard*, for which he pretended that he deſerv'd to be depos'd and loſe the Kingdom, he never ſo much as alledg'd his Foreign Birth; which yet had been the ſtrongeſt and moſt unanſwerable reaſon, for dethroning him, if that Statute had reach'd the Kings Off-Spring; or if being born beyond the Sea had diſabled them from inheriting the Crown, or been receiv'd among the Maxims or Rules of the Common Law. Neither could *Henry* himſelf have pretended any Right to the Inheritance of the Crown, if at that time, that cuſtom had been known for a Law, that being born elſewhere than in *England* ſhould exclude any heir from the Succeſſion. For he had no other claim of Right to the Crown, but as he was the Son of *John* of *Gaunt*, who was the third Son of *Edward* III. But that rule of *Ariſtotle* which is receiv'd in the Philoſophical Schools, is certainly true *Propter quod unumquodque eſt tale, idipſum eſt magis tale, that for which a thing is ſuch, is much more ſuch it ſelf.* For if *Henry* did Succeed to the Crown, becauſe he was Son to *John* of *Gaunt*, much more had *John* himſelf, had he been at that time alive, Succeeded to it; And what reaſons ſoever could have remov'd *John* from the Succeſſion, the ſame reaſons would have diſabled and debarr'd his poſterity. But *John* was born at *Gaunt*, without the Territories of the King of *England*, and within the Juriſdiction of the King of *France*, and therefore ſeeing he himſelf could not have Inherited the Crown by Succeſſion becauſe of that pretended cuſtom, neither could he derive the Succeſſion, to his poſterity. The ſame reaſon might have been objected againſt the Off-ſpring of *Lionel*, and againſt the whole Family of *Yorke*. For the Duke of *Yorke*, was no otherways entitled to the Succeſſion of the Kingdom, but by his right deriv'd from *Lionel*, who himſelf if he had liv'd, could never (that cuſtom being in his way,) have rightfully claim'd the Succeſſion of the Kingdom; becauſe he was a Stranger, as being born out of the Juriſdiction of *England*. Seeing then he himſelf had not the Right of Succeſſion, he could not tranſmit it to his Poſterity; and ſo the cauſe of that extraordinary conteſt, between the illuſtrious Families of *York* and *Lancaſter*, might eaſily have been decided by the Eſtates of the Realm; Seeing neither of the parties pretended to any right, but what was deriv'd from them, who had not the Right, of Succeſſion, nor could ever have been admitted to demand the Kingdom. From which, 'tis evident that after that Statute of *Edward* III, that cuſtom had no place in the Deſcent of the Crown, nor was it ever objected,

Henry IV. *Fourth's Father born out of* England.

Lionel *the Father of the family of* York *born out of* England.

objected, as an obſtacle to the Succeſſion. And tho' no example could be brought after *Edward* III. where they that were born Abroad, and out of the Dominions of *England*, had Inherited the Crown (which nevertheleſs, as we have prov'd, happen'd to *Richard*, and after him to *Henry* IV.) If, I ſay, no ſuch Inſtance had occurr'd to us, ſhould we therefore ſay, that that maxim or axiom took place, after the Twenty Fifth Year of *Edward* III. By no means, for that happen'd, becauſe there was no place, without the Allegeance of *England*, where the Succeſſor ſhould be Born, all the Provinces beyond the Sea, being taken from the *Engliſh*. But had they remain'd in the power of the *Engliſh*, no doubt but ſometimes the Kings and Princes of the Blood Royal of *England* with their Wives had Liv'd there, and their Anceſtors, had alſo begotten Children there. And it would have been very hard and contrary to all reaſon as well as to juſtice, for their being Born there, to have excluded their Children from their right of Succeeding to the Crown. But let us go on to the reſt of the Kings.

Henry V. Married *Catharine* Daughter of the King of *France*, and by the Marriage Contract, it was provided that the Children begotten in that marriage, ſhould Succeed to both the Kingdoms of *England* and *France*. *Catharine* conceiv'd in *France* tho' ſhe was deliver'd of her Son *Henry* VI. in *England*. I would know whether *Henry* VI. in caſe he had been born in *France* was therefore to have loſt his Succeſſion to the Kingdom of *England*? I come next to *Henry* VII. who was a *Welſhman* born in *Wales* of a *Welſh* Father; And tho' *Wales* was then united to the Crown of *England* yet they had not the ſame privileges with the *Engliſh*, as is clear from the Statutes of *Richard* II. But what his Judgment was, concerning the Succeſſion of his Eldeſt Daughter *Margaret*, tho' ſhe ſhould bear her Children in *Scotland*, ſhall be ſaid in the following Chapter.

Of Henry VI.

Of Henry VII.

When all the Eſtates of the Kingdom had Sworn Allegiance to their Queens *Mary* and *Elizabeth*, and had acknowledg'd and recogniz'd them, as the undoubted heirs of the Kingdom, by the order of Succeſſion, and engag'd themſelves to receive the Heirs of both, as the true heirs of the Kingdom, and their rightful Soveraigns, and that they were not to admit any other to the Succeſſion of the Kingdom, and had promis'd ſolemnly to maintain and defend their ſafety with their Lives and Fortunes. Queen *Mary* was afterwards married to *Philip* of *Spain* a Foreign Prince. Queen *Elizabeth*, if ſhe had pleas'd, might alſo have married a Foreigner, being often courted by them. Now put the caſe, that they had born Children by ſuch marriages, without the juriſdiction and boundaries of *England*, (For both of them might have been obliged, if not willingly, yet by Laws both divine and humane, to go into the Country and dwelling of the Husband) I ask whether the Eſtates of the Kingdom could have renounc'd ſuch Children, for their being born without the Dominions and Allegiance of *England*, and for that reaſon elude their Oath, and by that artifice been free from the Scandal and guilt of Perjury?

Of Mary *and* Elizabeth *Queens of* England.

'Tis certain then from the continual Succeſſion of the Kings of *England*, even to this time, that there were few of it's Kings, which either were not born out of the territories of *England*, or who did not interpoſe their judgment about Foreign birth, as that it was no hindrance in the Succeſſion of the Crown; and was never to be admitted as a plea againſt the Succeſſion of the next heir. For before the *Conqueſt*, two foreign Princes reign'd

Several of the Kings of England *were born within the Juriſdiction of other Soveraigns, and ſuch as were not*

gave their Judgment in favour of the Kings Poſterity as to their right of Succeſſion, where-ever they were born.

reign'd and were Kings of *England*; and after the *Conqueſt* of the three and twenty Kings which have reign'd (For that is juſt their number) ſix of them, were born without the ligeance and territory of *England*, at leaſt of Parents that were not *Engliſh*, but homagers to a Stranger. All the reſt of them have given their ſuffrages, concerning this caſe of foreign Birth, in the Affair of Succeſſion, or deriv'd their right from thoſe, who were Born abroad. And that Common ſaying is certainly true, that no man can transfer more right upon another, than he himſelf has. Was *Bertie* Lord *Willoughby*, who dyed lately Governnour of *Berwick*, and was ſo wiſe a man, that his fellow is Scarcely to be met with among many Thouſands; was he, I ſay, as being a Stranger, becauſe Born at *Cracow*, when at the ſame time there were juſt occaſions for his Parents living there, therefore to be excluded from his Paternal inheritance. 'Twou'd certainly be very unjuſt if the Crimes of other men, much more yet if their Lawfull doings ſhould be hurtful to others. What fault has he committed, who is Born of Lawfull Matrimony any where? Nay what have the Parents done, who perhaps obeying their commands, in whoſe power and at whoſe diſpoſal they were, have Married into Foreign Families? Suppoſe there had been Children of that Marriage, between the Emperour *Henry* and *Maud* the Daughter of *Henry* I. Ought not their Children to have Inherited the Crown, as much as the Children by *Geoffry* Duke of *Anjou*? Or if the King of *England* ſhould have a Son Born to him in *Ireland* (which is a Kingdom of it ſelf, and owes not Homage to an *Engliſh* man as ſuch) is that Son therefore to be excluded from Succeſſion, becauſe born in *Ireland*? But that cuſtom of excluding Foreigners, from Succeeding to their Inheritances, under another Prince, obtain'd in all the *European* Countries. But that, as I ſaid, is only in Succeſſion to the Eſtates of private men, but never to Kingdoms: And ſo the propoſition of that Syllogiſm is to be diſtinguiſh'd as formerly, that is, it is not to be extended to thoſe who are deſcended of a King.

Doleman's *Propoſition diſtinguiſh'd.*

CHAP. VII.

That Foreign Birth is no hindrance in the Succeſſion of Princes, will appear from the opinion of the Engliſh *themſelves in the like caſes, and from the conſtant cuſtom of other Nations.*

The ſixth anſwer to the exception of Foreign birth.

THere remain ſtill other good and unanſwerable reaſons, by which it evidently appears that the Succeſſive right to a Crown, cannot be loſt by any exception of the Heirs being born out of the Kingdom, and that foreign birth takes place only in the Succeſſions of private men: And that I may bring an argument from the principles of the Law of Nature it ſelf, That Edict of the *Roman Pretor* is well known, *Quod quiſque juris in alium Statuerit, eodem & ipſum quocunque poſtulante, ſive*

ſive ad cujuſvis inſtantiam uti debere, that is, What any man determines in point of right againſt another man, he ought to govern himſelf by the ſame determination, whoſoever the plaintiff be, or in the caſe of what Perſon ſoever. *Ulpian* ſays of this *Edict Summam æquitatem habet & ſine cujuſquam indignatione juſta* [a]. That it contains the greateſt equity, and gives no juſt offence to any man: For who can quarrel with that Sentence, which he himſelf gave, or caus'd to be given to other people? Having laid this for a ground work, as a propoſition that in it ſelf contains natural equity, as the *Pretor* ſaid, I ſubſume thus: The *Engliſh* pretend a right to the Crown of *France*, and the Kings take to themſelves the title and arms of *France*, and yet none or very few of them are born in *France*; but only claim the right of Lawful Succeſſion, and complain of the injury of being kept back from that Crown, which by Succeſſion appertains to them, and for being excluded without any juſt reaſon: Therefore the ſame deciſion ought to be given to the King of *Scotland*, by the *Engliſh*, ſo as the Succeſſion of the Crown be adjudged to him, notwithſtanding his not being born within the Kingdom of *England*. The caſe is exactly the ſame. For when *Edward* III. demanded the inheritance of *France* in the Right of his Mother, it might have been objected againſt him, that he was a foreigner, born in another Kingdom, and therefore he ought not to be allow'd to Succeed to the Kingdom, notwithſtanding his being next in Blood. And yet the *French* never made that objection, which undoubtedly they had not fail'd to do, had they believ'd that there was any ſtrength in that argument; And the *Engliſh* could never have been put off with ſuch a ſhift. Why then can they think it juſt and equitable that our King, as being a Stranger and born in another Kingdom, ſhould be put by his Succeſſion to the Crown, ſeeing their own Kings who are not leſs Strangers to *France*, claim nevertheleſs to themſelves the right of Succeſſion to that Crown at this day? Muſt that which is Lawful for them to do, be injuſtice in us? They think that the Crown of *France*, is by right due to them, tho' they are Strangers and born in another Country, and yet they will ſay that it's unjuſt in the King of *Scotland* to be admitted, who by the ſame right claims the Crown of *England*. Good Neighbours, is this your way? do ye thus accept perſons in the affair of *Right* and *Juſtice*, ſo as what you reckon *Right* and *Juſt* in your own caſe, is unjuſt in other mens? This truly is to dig up the very foundations of natural Equity. For we have the ſame Right to natural Equity that you have; with reſpect to it the rich and poor are alike, and an *Engliſh* man is not more eſteem'd or valued in *France*, than a *Scots man* is in *England*. But there is no reſpect of Perſons with God, before whoſe dreadful tribunal we muſt all appear whether we will or will not. The common Law is the bond and cement of all Nations, and it's impoſſible that what is juſt in one Nation, ſhould be unjuſt in another. The ſame thing may be ſaid of *Ireland*, of which they own themſelves Kings, when at the ſame time none of them are born in *Ireland*.

[a] L. 1. quod quiſque juris. F. F.

The King of England *is King of* France *tho' not born within the Ligeance of* France.

But our Neighbours may except againſt this reaſoning, That this Law of excluding Strangers from Succeſſion has not place in *France* as it has in *England*: But I anſwer that that is much more ſtrictly obſerv'd in *France*, than it is in *England*; For a Foreigner in *France* by the Law of that Kingdom is excluded from Succeſſion not only to Inheritances, but

Objection Anſwer'd.

but alſo from perſonal Eſtate or moveables: Whereas in *England* it only takes place in Fiefs, and Hereditary or immoveable Eſtates[a].

[a] Bodinus ib 1. de Republica Cap. 6 &c. Tyrrhenus in Conſtitutionibus Normannicis

An Objection, and its Anſwer.

But our Neighbours may reply, That the *French* never objected that againſt the claim and demand of the *Engliſh*, but always ſuppreſt it, and defended themſelves only with the exception of the *Salick* Law. I acknowledge all that to be true. But that was not for want of Advocates for the *French* cauſe, or good Heads, with which that great Kingdom was ſufficiently provided. Neither had they omitted that objection of Foreign Birth, if they could have Alledged it in Law, but they knew that that Law took no place in the Succeſſion of Kings, and that the reaſon of that Law, about debarring thoſe who were born out of the Kingdom, from the Succeſſions of Private men, ceas'd in the Succeſſion of the Crown: Neither did any man either in jeſt or earneſt ever object that, againſt the claim or demand of the *Engliſh*, which could never have been paſt over in ſilence, could ſuch an exception have been any way ſerviceable to their purpoſe. Why was ſuch a bloody Battel fought at *Creſſy*, in which thirty thouſand of the *French* were ſlain, if *Philip* could have been diſcharged or acquitted, and *Edward* excluded by ſuch a ſlight exception? What occaſion for having their recourſe to the *Salick* Law, whether true or feign'd, by which they defended themſelves, if all *Edward*'s right could have been overthrown, on the bare account of his being born in another Kingdom? Why do the Kings of *England*, bear the Arms and Title of *France* to this day, if as being born elſewhere and out of the Allegiance of *France*, they cannot pretend to the Crown of that Kingdom?

Let the Annals of all Nations be turn'd over and over, and we ſhall never find that a Stranger born out of the Juriſdiction of a Kingdom, who is otherwiſe *rightful* Succeſſor, was ever rejected from his Succeſſion, upon the account of Foreign Birth. And the moſt Chriſtian King of *France* himſelf, owns himſelf King of *Navarre* which was wreſted from his Anceſtors in this very age, moſt unjuſtly by the *Spaniards*. And yet neither he nor his Mother were born in *Navarre* nor in *Spain*. *Rome* had Seven Kings after it was built, the Second of which was *Numa* who was born at *Cures* a Town belonging to the *Sabines*, and *Ancus Martius*, *Tarquinius Priſcus* was by his kindred and birth of *Corinth*, *Servius Tullius* was not free born, but even a Servant, and yet all of them were admitted to the Kingdom, by election I confeſs, but at that time, neither kindred nor their being born out of the Kingdom did exclude any man. In Elective Kingdoms when the Commonwealth of *Rome* was deſtroy'd, and the *Cæſars* had taken the Government upon them, they admitted even *Spaniards* to the Imperial dignity, when the Empire was almoſt Succeſſive; tho' the *Romans* had not greater Wars with any Country than with *Spain*. For *Nerva* adopted *Trajan*, *Trajan Adrian* and both were *Spaniards*. *Adrian* adopted *M. Antoninus* the Philoſopher. And afterwards *Theodoſius* the *great*, *Arcadius*, *Honorius*, *Theodoſius Junior*, and lately *Ferdinand*, all were *Spianards*, who govern'd the *Roman* Empire proſperouſly and with good Succeſs. *Septimius Severus*, who was alſo a great man, was born at *Leptis* in *Africk*, *Maximin* at *Sirmium* in *Hungary*, and *Conſtantine* the *great* was born in *Britain*. Did Foreign birth prejudice any of theſe?

The King of Navarre, *was not born within the Juriſdiction of that Kingdom.*

That conceit of excluding Princes born from their Succeſſions did not take place any where.

Emperours of Rome, *that were of Foreign birth.*

As

As for the Emperours of *Conſtantinople*, after the diviſion of the Empire, they attain'd to the Empire, without any regard being had to the place of their birth, nay tho' they had been born in a Stable or Hogſty, as we lately obſerv'd of *Juſtinus*, who of a herdſman was made Emperour. In *Germany* (but that Empire is Elective) being born in another Country, never was any impediment to ones promotion; For ſometimes *French*, ſometimes *Spaniards* and *Engliſh* men obtain'd the Empire. But I can ſay of *Scotland* that all our Kings were born in it, and yet had they been born any where elſe without the Dominion of *Scotland*, they had ſuffer'd nothing upon that account. I ſhall propoſe one or two inſtances from their own Law, in which, the King of *England* being Judge, Strangers who ſeem'd to be the neareſt Heirs, were admitted to the Succeſſion. *Baliol* who after the death of *Alexander* III, was the firſt among the Competitors for the Kingdom of *Scotland*, was an *Engliſh* man, born in *England*, for he was the Grandſon of that *Bernard Baliol* by his Son, who had the Honour of taking *William* King of the *Scots* priſoner by a ſtratagem, when he was returning to his own Country, accompanied only with Sixty Horſe. Who will ſay, that the Daughters of *David* Earl of *Huntington*, who were born to him in *England* by his Wife, who was Daughter of *Ranulphus* Earl of *Cheſter*, were not *Engliſh* Women? But *Edward* I. made no ſcruple, to put that ſame *Baliol*, an *Engliſh* man born in *England* of *Engliſh* Parents on both ſides, upon us, as the Lawful Heir and Succeſſor of the Kingdom: And yet ſuch as are born without the Juriſdiction of *Scotland* are as much debarr'd from the Succeſſion, as any foreigners are in *England*. For that is common to all Nations, not to admit Strangers to the Succeſſion of private men, for the reaſons I have given already, which nevertheleſs does not hold in the Succeſſion of a Kingdom. *Edward* III. did the ſame thing in *Edward* the Son of this *John Baliol*, whom he wou'd impoſe upon us for our King, tho' he was born in *Normandy*, or at leaſt in *England*.

of Conſtantinople.

of Germany.

The practice of Edward i. *and* Edward iii. *with relation to* Scotland.

In *Danemark Henry* I. Duke of *Pomeranid*, and *Chriſtopher* of the Family of *Bavaria*, and *Chriſtiern* of the Family of *Oldenburgh*, and of the Nation of the *Vandals*, the moſt inveterate Enemies of *Danemark*, were admitted to the Crown of *Danemark*, whoſe Succeſſors enjoy that Kingdom at this day, tho' the Kings abovenam'd were all Foreigners to *Danemark*, and yet all of them Kings of *Danemark*.

In Danemark *Foreigners were allow'd to Succeed.*

In *Poland Jagello* a *Lithuanian*, tho he was a Stranger, nay a Heathen, Succeeded to the Kingdom, and yet that Kingdom was never more proſperous than it was in his Reign: For all *Lithuania* was annex'd to it. So that ſince that time the *Poles*, being Senſible of the Benefits they receiv'd, by taking Foreigners to be their Kings, ſeem to have reſolv'd to take none but Foreigners, as it obtain'd in *Henry* III. of *France*, *Sigiſmund* III. who was Son of *John* III. King of *Sweden*: That ſo in chuſing ſuch for their Kings, their own Eſtates may accrue to the Kingdom of *Poland*.

As alſo in Poland.

France does not afford us one Inſtance, becauſe the Kings of *France* have ſcarcely ever been Born but within the Territories of that Kingdom. But in *Spain* the Emperour *Charles* V. tho he was born within the Juriſdiction and Allegiance of the King of *France* at *Ghent*, yet he Succeeded nevertheleſs to his Grand-Father *Ferdinand*, and his Mother *Joanna* in the Kingdoms of *Spain*. And I read that ſometimes that very thing has been controverted in *Spain*, particularly in the Succeſſion of *Ara-*

And in Spain.

Aragon. For when there aroſe a debate between *John* II. and his Uncle *Ferdinand* Duke of *Angiers*, and the Earl of *Urgella* about the Succeſſion of the Kingdom of *Aragon*, and *John*, being contented with his own Kingdom of *Caſtile* gave way to his Uncle; the Subjects of *Valentia* *Aragon* and *Catalonia* were very earneſt for the Earl of *Urgella*, and alledged for themſelves, that neither *John* nor *Ferdinand* were born within the Territory or Ligeance of the Kingdom, but were foreigners by their birth, only the Earl of *Urgella*, was born within the limits of the Kingdom. Nevertheleſs *Ferdinand*, tho' born in a foreign Country, obtain'd the Kingdom, and his poſterity reign over it to this day: And beſides they have been admitted to the Kingdoms of *Caſtile*, *Navarre*, and *Aragon*, and laſtly to the Kingdom of *Portugal* alſo, notwithſtanding their foreign birth. St *Lewis* IX. King of *France*, when the Kingdom of *Caſtile* fell to him by his Mother, he was invited by the Nobility to receive that Kingdom, and Letters were ſent him from all the Eſtates of *Caſtile*, by which he was called to take the adminiſtration of the Kingdom upon him: *Bodinus* ſays that theſe letters are ſtill preſerv'd in the Archives of the Kingdom of *France*, and he is a man that, for his Learning, and the great Services he did his Country, deſerves to be believ'd, and yet it was never objected againſt *Lewis* that he was born in *France*. *Alphonſus* VI. had by his Wife *Ximena* a Son who was called *Alphonſus Jordanus*, becauſe he was born in an expedition to *Jeruſalem*, and baptiz'd in the River *Jordan*; had he ſurviv'd his Father wou'd he have been excluded from inheriting the Kingdom, when a Nephew by his Siſter did Succeed? So this then is a moſt true propoſition, That one's being born out of the Country, did never hinder the Succeſſion of the true Heir in any Kingdom, unleſs perhaps they will make a new Law for the moſt Serene King, which was never ſeen nor heard of before among men.

Lib. 6. cap. 5. de Republica.

Rod. Sancius Cap. 3. lib. 3. Hiſtor. Hiſpan.

Henry VII's *Judgment concerning the Children of his eldeſt Daughter* Margaret *tho' born out of the Dominion of* England.

But the Judgment of that moſt wiſe King *Henry* VII deſerves to be conſidered; I mean what his thoughts were of Heirs of the Crown, that were born out of the Kingdom, and of the Poſterity of *Margaret* his eldeſt Daughter. *Polydore* gives us it, tho' *Holingſhed*, according to his wonted Candor in what relates to us, omits it. For when the Marriage between *James* IV. King of *Scotland*, and the eldeſt Daughter of *Henry* VII. was under the deliberation of his Council, and the greateſt men of the Kings Council (all of them almoſt being conven'd on a matter of that conſequence) had given their opinion, that that Marriage by which the King's eldeſt Daughter was to be beſtow'd on a foreign Prince, would not be for the intereſt of the Kingdom: For this reaſon, becauſe it might ſo happen (which is the caſe now) that the Poſterity of *Arthur* and *Henry* the Kings Sons failing, the Right of Succeſſion would devolve to the Children or Deſcendants of *Margaret*, and by conſequence to foreigners. To which that moſt wiſe Prince anſwer'd, that it was to no purpoſe to make that objection; For tho' the Succeſſion of the Kingdom ſhould go to the Children of *Margaret*, that would be much more to the advantage than to the detriment of *England*: becauſe *England* ſhould not thereby accrue to *Scotland*, but the contrary; *England* being a much more opulent and greater Kingdom. This anſwer of that moſt wiſe King being applauded by all, the young Princeſs *Margaret* was married to *James* IV. from which marriage *James* VI. is deſcended. What occaſion was there for that objection, had foreigners been uncapable of the Succeſſion? Shall we think that the Counſellours of ſo great a King,

were

were ſo ignorant of the Law; as not to know, that altho' the Sons of *Henry* VII. and their Off-ſpring ſhould fail, nevertheleſs the Succeſſion in the Kingdom could never come to the Children of *Margaret*, who muſt needs be Strangers, and who were to be born out of *England*? Shall we believe that ſo accompliſh'd a King as *Henry* VII. was, knew not the Law of his own Kingdom, when it had been ſo eaſy to take off that Scruple? That is not to be fear'd, he might have ſaid, which can never happen, as being contrary to the Law of Succeſſion. For tho' my Sons ſhou'd die, and leave no Children behind them, yet the Children of *Margaret*, can never be admitted to the Inheritance of the Crown, becauſe they muſt be Foreigners, born out of the Juriſdiction and Dominion of *England*, and ſo muſt be debarr'd from the Succeſſion, by the Law of *England*. But that never entred into the minds either of that King or of his Councellours, and both he and they decreed, that the right of Succeſſion devolv'd to the Children of *Margaret*, in caſe *Arthur* and *Henry* and their Off-ſpring ſhou'd fail: They preſaged that advantage at leaſt to remedy ſo great a loſs, as that by the Succeſſion of the Children by *Margaret*, the happy union and coalition of the whole Iſland of *Britain* into one civil and ſolid Body, which had been ſo often, and ſo heartily and univerſally wiſh'd for, would be accompliſh'd.

Henry vii's. *Sentence was declaratory of Right with relation to his Children and their Poſterity.*

But our Adverſaries will ſay, that *Henry* VII. did not by that deed decree, that the right of Succeſſion ſhould go to the Children of *Margaret:* That's true. For he left that *in juris Communis diſpoſitione*, as the Lawyers ſay, that is, to be order'd according to the common Law, and he could not do otherwiſe neither could he do more. Yet he declar'd, that *Arthur* and *Henry* his Sons, and their Off-ſpring failing, the right of Succeſſion would devolve to the Children of *Margaret* howſoever they ſhould be Born out of the Territories of *England*; And his Sentence then in that Affair, was *declaratoria juris*, as we uſe to ſpeak, that is, it declar'd what was Law and Right in that Caſe. Wherefore they who deny to the Off-ſpring of *Margaret*, the Right of Succeſſion to the Kingdom of *England*, have not only the Law of God, Nature and of Nations againſt them, and the Civil Law, but alſo the mature Judgment and Determination of their own Kings, who have declar'd, that the exception of Foreign Birth, never had place in the Succeſſion of the Kingdom. This declaration was made by their two Famous Kings, *Edward* III. and *Henry* VII. Can it then ſeem credible to any man, that either *Edward* or *Henry*, whilſt they did beget or Marry their Children out of *England*, that they, I ſay, meant by thoſe deeds, to Abdicate them from the Inheritance and Succeſſion of their Anceſtors? Or when *Leonel* Married the Duke of *Milan*'s Daughter. Or when *John* of *Gaunt*, took for his Wife the Daughter of *Peter* King of *Caſtile*, as did the Duke of *York* the other Daughter of the ſaid *Peter*, in caſe they had by thoſe Marriages left Children, who might have been next in Blood to the deceas'd King, were they to have been excluded, from the Inheritance of their Anceſtors, becauſe they were not Born within the Bounds of their own Country? Great Princes could never have ſuch thoughts, as were ſo inconſiſtent with Piety; For the Natural Affection of Parents is greater towards their Children, even tho' they be Wicked, much more if they were only Born out of the Country, than to ſtrangers, that is, ſuch as are Born of another Parentage or Family; And they may be all reckon'd to be of *Edward* III's mind, who declar'd, according to what always had been the Law, that the Kings Children or Off-ſpring where-

whereſoever they be Born, have a right of Inheriting. And ſo the propoſition of that Syllogiſm is quite overthrown by the determination of *Henry* VII. and of the whole Kingdom of *England*.

CHAP. VIII.

Other particular Reaſons, Why the exception of Foreign Birth, can be no hindrance to the Succeſſion of the moſt Serene Prince, ſeeing he may be reckon'd an Engliſh *man.*

The Seventh Anſwer to the Objection of Foreign birth.

MAny other reaſons may be brought againſt the exception of foreign birth, tho' what has been alledg'd by our adverſaries were true, and ſtrangers or the Children of ſtrangers were to be debarr'd from the Succeſſion; Nevertheleſs King *James* VI. may be lawfully ſaid to be the Son of an *Engliſh* man. For his Father *Henry* was born of an *Engliſh* Lady, a Princeſs of the Blood royal, the Niece of *Henry* VIII. and a natural born *Scots* man, who yet was reckoned by *Henry* VIII. as an *Engliſh* man; And the moſt Serene Prince his Son, poſſeſſes to this day, ſome Fiefs in *England*, which do belong to him by the right of Succeſſion, upon account of which he owes Allegiance and Fidelity, which King *James* has never renounc'd or diſclaim'd, nor could he renounce it, but has always kept it inviolably. For his being born out of the Dominion of *England* can in no wiſe prejudice his right, ſeeing he was born of an *Engliſh* man, and one who was a Subject of the King of *England*. For his Father *Henry* was always reckon'd an *Engliſh* man, while he liv'd, and after his death, and born in *England*. And the meaning of that Law is, that the Children of *Engliſh* men, whereſoever born are to inherit by their Right of Succeſſion. The laſt clauſe ſave one in that Statute of *Edward* III. in the twenty fifth year of his Reign is,

And that all Children that are heirs, which from henceforth ſhall be born without the ligeance of the King, whoſe Fathers and Mothers at the time of their birth be and ſhall be at the faith and ligeance of the King of England, *ſhall have and enjoy the ſame benefits and advantages, to have and bear the inheritance within the ſame ligeance, as the other heirs aforeſaid for the time to come: Provided always that the Mothers of ſuch Children paſs the Sea, by the Licence and Will of their Husbands.*

Nothing

Nothing can be more plainly said, than the right of Succession to inheritances in *England*, is here express'd to belong to the *Children of the English*, tho Born without the Ligeance of *England*. By this Statute without all Controversy the most Serene Prince, *James* King of *Scotland*, ought to be admitted to the Succession; for tho he was Born without the Kingdom, yet his Father was an *English* man Born in *England*, and a Subject of the King of *England*. And *Darnely*, so *Bodinus* calls him, remain'd a Subject of the King of *England*, notwithstanding his marriage with *Mary* Queen of *Scotland*, as that Author proves by most Solid reasons; and that the King of *England* could have brought him to a Tryal, notwithstanding *Henry*'s having Married a Sovereign Princess. Neither does it hinder King *James*'s Succession, that both Parents are express'd in the Statute: For Lawfull Children, as I have often said, *Patris conditionem in omnibus sequuntur*, are in all respects and in all things to have the privileges of the Father, nor is the Mothers Country or Extract minded in the matter of Succession. And that copulative particle (*and*) is often taken in Law for a disjunctive; For so said *Paulus*, the conjunction is sometimes taken for a disjunction[a]. *Labeo* says, *Ut in illa Stipulatione mihi & hæredi te hæredemq; tuum daturum, duplex est ibi Conjunctio, tamen sufficit si alteruter solvat, aut alteruti solvatur*, that is, *As for Example in that Stipulation, whereby one obliges himself and his Heir to give to me and to my Heir, there is a twofold conjunction yet if one or either of the two performs the condition of that Agreement, or if either of the other party receives due payment, the purport of that Stipulation is fully answer'd.* And afterwards the same Author says[b], 'Tis often so order'd, that both things that are conjoyn'd are taken for things disjoyn'd, and things disjoyn'd for such as are conjoyn'd, which he there illustrates by Examples. Likewise *Julian* affirms, If a piece of Land, and the use and profit of the same Land be assign'd to *Titius*, it will be in the power of *Titius*, if he pleases, to lay claim to the same, that he may receive the profit of it[c]. *Bartolus* says the same thing. Nay he gives a rule, when the particle (*and*) is to be taken disjunctively[d]. So that it is most evident, that the most Serene Prince, is not only born of an *English* Race, but also of a Father who was an *English* man, and a Subject to the King of *England*, and that he himself is upon account of the Lands that he has in *England*, the King of *England*'s Subject.

The import of both Father and Mother being nam'd in the Statute consider'd.

[a] L. conjunctionem de verborum obligat.

[b] In L. fæpe ibidem.

[c] L. si Titio de usu & usufructu legato.

[d] Legata de Legat.

[e] L. 1. nu 2. de justitia & Jure.

And it makes nothing against his right, that both his Parents were not born in *England*; For, should we allow none to be Lawful Kings of *England*, but those whose Father and Mother were both, at the time of the birth of their Children, under the Jurisdiction of the King of *England*, it might be fear'd that the Succession of many of their Kings might be call'd in question. For many of them were lawfull Kings of *England*, whose Fathers only were born in *England*, or within the dependencies of *England*. And as for *Stephen*, neither of his Parents were born within the Jurisdiction of *England*, but both of them were the King of *France*'s Subjects; And it was also the case of *Henry* II. whose Father was a natural born *French* Subject. Had Children been born to his Eldest Son *Henry*, or to his Second Son *Richard* I. the one Parent, to wit the Father, being only a Vassal of the King of *England*, (if any man may be said to be a Vassal to himself) ought not such Children to have inherited after their Ancestors? Neither can it be said of other Kings, who married Wives out of *France*, *Spain* and *Flanders*, that their Children by such Ladies had both Parents *English*.

'Tis not necessary for one's being an English *man, that both his Parents were born in* England.

For the Daughters of foreign Potentates, which were given in marriage to the Kings of *England*, were not bound to any other than conjugal Fidelity, neither can they be juſtly ſaid to be under the Allegiance of the Kingdom. Wherefore a fiduciary Homage of both Parents is not neceſſarily requir'd; For ſometimes the privilege of the Mother's birth alone, is ſufficient, as in *Henry* II's caſe who was the Empreſs's Son, for his Mother was only born in *England*. 'Tis enough alſo for the Succeſſions of Private men that the Father be an *Engliſh* man. For if an *Engliſh* man marries a *Scots* Woman, the Children by that marriage are *Engliſh*, and this has been always the cuſtom in *England*.

Who may be truly ſaid to be Engliſh *men by the civil or common Law.*

'Tis certain, that by the Common Law, the moſt Serene Prince, *James* VI. who had an *Engliſh* man born in *England* for his Father, is alſo himſelf an *Engliſh* man, and to be admitted as ſuch to Honours and Dignities in *England*. For the words of the Law are ſo very expreſs and clear, as that they leave no place for doubting in this queſtion. For he whoſe Father is a Citizen, is alſo a Citizen Born, whereſoever he be Born. So *Ulpian* ſays, [a] that he who is Born of a *Campanian* Father and a Mother of *Puteoli*, is, and is reputed as much a Citizen of *Campania*, as if both his Parents had been *Campanians*. *Bartolus* truly, and the gloſs upon the ſame place, make that rule or General propoſition, that one is to be reckon'd a Citizen, as much upon account of his Fathers Birth, as of his own. But the ſame *Ulpian* on another Law [b] ſpeaks this caſe yet much more clearly, *Filius civitatem ex qua pater ejus naturalem originem ducit, non domicilium ſequitur. A Son*, ſaid he, *attains the privileges of that City, from which his Father had his natural riſe or beginning, and not where he dwells*, which is nothing elſe than if he had ſaid, He is a natural *Engliſh* man, who is the Son of an *Engliſh* Father, tho' otherwiſe he cannot be brought to a tryal in *England*, or is not Subject to the juriſdiction of *England*. And as the gloſs and the Doctors on that place conclude, *Filius originem Patris quoad honores & dignitates ſequitur, non quoad munera, quæ invitus ſubire non cogitur. A Son has title to the pedigree of his Father with reſpect to honours and dignities, but not as to Offices, which he is not compelled to undertake againſt his will.* So *Ulpian*, *Senatores & Patricios eos accipimus, qui a Patriciis & Senatoribus deſcendunt, ut qui Patrem Senatorem aut patricium habent, Sententiam ut Patricij dicere poſſunt.* That is, *we acknowledge them for Senators and Patricians, who are deſcended of Patricians and Senators, ſo as they who have a Senator or Patrician for their Father, have privilege to Vote as Patricians.* And the Emperour *Philip* ſaid [d], *Filios apud originem Patris, & non in materna civitate, licet ibi nati eſſent, ad honores ſeu munera compelli poſſe, explorati juris eſt*; That is, *'Tis well known to be of undoubted Law, that Sons can be forc'd to take the honours or functions according to the original or pedigree of the Father, and not in their Mothers Country, tho' they were born in it.* Let the Candid reader then Judge from his own reaſon, if this controverſy has not been decided, by the moſt famous Lawyers more than thirteen hundred years ago; to wit, whether or not, he whoſe Father was a free Denizon, (tho' himſelf be not within the juriſdiction of that City, and is not obliged to undergo any burden of the Country) ought to be reputed a natural Citizen. For my part, I have no doubt, but if thoſe Emperours who made thoſe Laws, or thoſe famous Lawyers who gave their Judgment in this affair, were ſitting Judges in this controverſy, they would anſwer for the moſt ſerene King's title, that tho' he himſelf was born without the territories of *England*,

[a] L. F. ad municipalem.

[b] L. aſſumptio ibidem.

[d] L. 3. de municipibus & originariis.

land, yet he is a natural *English* man: And 'tis certain, all other men, who have in themselves any Sparks of the light of natural reason and own them, must be of that mind.

Examples of them who were reputed Citizens, as being born of Citizens.

If examples be desired, take one from *Plutarch*, who says of *Pericles*, who was the Son of an *Athenian* Citizen, yet born of a Mother that was a foreigner, that he demanded of the People his right, of being reckon'd a Citizen of *Athens*. And *Livy* [a] writes that the *Romans* made a Colony of four thousand men who were born to *Romans* of *Spanish* Women, during the War in *Spain*. Truly *Henry*, the Father of the most serene Prince, was an *English* man born in *England*, of Parents that ow'd allegiance to the King, neither did he lose his Citizenship, or the privilege of an *English* Subject, by going into *Scotland*. Neither could he have releas'd himself, from the authority or power of his Soveraign, without his own consent; but the King had always power to call him to account. *Bodinus* a most ingenious man, treats of this very question expresly [b], And he brings the decision of the *Parliament* of *Paris*, to confirm that opinion, in the Case of a certain *French* man, who had liv'd Fifty years at *Venice*; the Parliament decreed that seeing he had neither been banish'd, nor committed any crime, for which he should lose his privilege of being a Subject of *France*, that all that time, he continued to be a denizon of *France*. This Sentence was given on the fourteenth day of *June* 1544. That the most serene Prince's Father was an *English* man, and born in *England*: Whence it's evident, that notwithstanding his marrying a Wife without the territory of that Kingdom, yet he still retain'd the rights and privileges of an *English* man.

[b] Lib. 1 cap. 6.

Such things as hinder Succession in fiefs, do not affect the Heir of the Crown.

Moreover the *vitium Sanguinis*, or as the *English* call it *attainting* or corrupting the Blood criminally, which is the same thing that we call *forefaulture*, hinders Succession among the *English*, as also ones being a foreigner by birth, and other faults and impediments which by the Municipal Laws of *England*, debarr Sons from Succeeding to their Fathers; such as these, When the Father alienates his Fief, when he cannot shew a clear Title or conveyance, nor make out his claim, encroachment, disclamation, if it has been denied, or not recognized, and such like. All such things, especially if the Person be legally convict or outlaw'd or condemn'd, or if in these cases there has been any declaration of the Law made, spoil the Succession in Fiefs. The reason is, because all ingratitude and crimes in the Vassal against his Lord, by which he injures either his Honour, Estate or Life, is punish'd with the Loss of that Fief, which he holds of his Lord, and this punishment affects the whole race, descending from the Vassal, as to Succession. For that which unites being interrupted, or the *medium inhabile*, to use a Law term, the extremes are disjoyn'd, so as they cannot be united: For example, if the Son be condemn'd for Treason, tho' he had never enter'd upon, nor was invested in the Fief, yet the Grandson does not Succeed to his Grandfather, who had never been divested; because the Grandson could not have been related to the Grandfather but by the Son, *& copula vitium reale contraxit*, and his crime renders the Grandchildren uncapable in law of the Succession.

But

But the ſtain of Blood ceaſes in the Succeſſion of a Crown; for ſuch is the Prerogative and Dignity of Royal Blood, that it's uncapable of any legal ſtain, neither does it ſuffer it ſelf to be contaminated with any diſtaining or blemiſh whatſoever, but throws out all ſuch impurities, and even any infectious or venomous contacts: As we ſee in Rivulets or little Brooks, tho' their fountain or ſpring be poiſon'd, yet when they begin to take their courſe, by running they inſenſibly loſe their infection or venom, and recover themſelves, and having, as it were by ſweating, caſt out all filthyneſs, they now hold on their courſe on the Earth, being pure and cleans'd. Wherefore the Royal Blood is not, cannot be ſtain'd, neither does it admit theſe defaults or infections of Blood, which overthrow the Succeſſions of private men.

The Royal blood admits of no guilt or defect.

The reaſon why Royal Blood, or he who is to Succeed in the Kingdom, if happily any Succeſſion devolves unduly upon Kings or Princes, cannot have the crime of Rebellion, foreign birth, or any other defaults objected to him, is this. What things ſoever are loſt to, or taken from any man by way of puniſhment or fine upon the account of his crime, are to be delivered into the King's Exchequer, and the King's Officer is order'd to ſeize the effects, and they become an Eſcheat. But as to the King himſelf, he ſtands clear and purg'd from all thoſe faults and loſſes which affect his inferiours, and that's eſtabliſh'd both by the *Lex Julia & Papia*; for no Eſcheat can affect the perſon of the Prince. In legataries or perſons to whom legacies are bequeath'd, if he to whom the bequeſt is made, died before the day on which the legacy came to be due to him, that legacy became an Eſcheat; And yet if a Prince, to whom any thing is bequeath'd, dies before the day, on which by the Will of the Teſtatour his legacy came to be due, the legacy was not Eſcheated. So in an inheritance, if it was ſeiz'd *ante apertas tabulas*, before the Tables wherein the Will or Teſtament was written were open'd, it became an Eſcheat; but it was not ſo, when the King was appointed Heir, even before he was rais'd to the Throne. *Juſtinian* explains to us, how many ways Eſcheats were made [a]: But yet in the General what goods ſoever whether moveable or immoveable, perſonal or real Eſtates, fell to the Exchequer, they became eſcheated [b]. And *Cicero* calls all Heritages *Caducas* or Eſcheated, from which the Heirs fell for ſome crime or impediment [c]. And ſo 'tis in Law, ſuch legacies were ſaid to be Eſcheats, from which the perſons to whom they were bequeath'd fell, upon account of the incapacity of the perſon [d]. So that portion was ſaid to be *dos caduca*, an eſcheated Portion, which was confiſcated to the Treaſury upon the account of an unlawful Marriage; and *Caduca Succeſſio*, the Succeſſion in an Inheritance, was eſcheated, for the fault of the Lawfull Heir, who, as being of Foreign Birth, or for ſome other Legal incapacity, was rejected. This is the privilege of the Prince, that whatever is given, bequeath'd, or by any other right due to him, cannot become an Eſcheat, no not by any perſonal fault of his. And *Ulpian* writes this very thing, *Ex lege Julia & Papia*, Lib. 20. *ad legem Julium & Papiam*; Out of the 13th. of which, that Judgment or Oracle in Law is taken, *Princeps legibus Solutus eſt, ut caducum in principis perſona eſſe non poſſit, neque Hæreditas ab eo tanquam indigno, auferri, etiamſi cauſa caducitatis occurrat.* That is, the Prince is free from the Laws, ſo that no Eſcheat can affect the Perſon of the Prince, neither can the Inheritance be taken from him, as unworthy of it, altho' there was juſt cauſe

An Eſcheat cannot affect the Prince.

[a] In leg. unic. C. de Caducis tollendis.

[b] De his quæ in teſtamento delentur. Sic & L. 9. & L. ad *S.* C. *S*yllanianum.

[c] In Philippic 10.

[d] Ulpian. Inſtit. lib. 17. D. D. L. ſi quis officium §. 1. L. dos de ritu nuptiali.

cause of an escheat. *Dion* [a] observes that this privilege was first granted to *Augustus* and to his Heirs.

[a] Dion. Lib. 53.

Another reason why legal guilt cannot affect a Prince.

Another reason for this may be brought from the Law, as that a Sovereign Prince has none against whom he may trespass; For neither is the Crown a Fief, nor has it any Superiour against whom it can commit a Crime, but the Crown is it's own Superiour; which as it can purge and remit the Crimes of other men, so much more can it Pardon it self. For it would be absurd, to try or punish him for a Crime, who himself can give Pardons to other men for their Crimes; For no man can bestow that upon another men, which he has not himself. And as I said *in libris feudorum*, If a Slave, or any Servant should be made Emperour, as was reported of *Basilius* the *Macedonian*, Emperour of *Constantinople*, or a Swine-Herd, as *Justinus Major*, or a Shepherd, and consequently most mean and ignoble by their Birth, yet no sooner are they rais'd to the Imperial Dignity, but they not only become Noble themselves, but can also conferr Nobility on others. And whosoever is a Sovereign, whilst he bestows Nobility upon one, and Magistracy or Authority to minister Justice on another, he himself is to be reckon'd the fountain of all Nobility and Jurisdiction, tho' he had been call'd from following his Herd to the Empire, as is said of *Tamerlane*. By the Canon Law, Bastards are debarr'd from all sacred orders, and in *England* they who are Born beyond Sea; But in the Civil Law, if a Slave was made *Prætor* he was reckon'd a free man, because Magistracy had made him Free, as it could have done tho' it had known him to be a Slave [f]. And in the Canon Law, *Osius*, *Bonifacius*, *Felix*, *Agapetus*, *Theodorus*, *Silverius*, *Deusdedit*, *Felix Tertius*, *Gelasius*, *Agapetus*, and several more Popes, 'tho Bastardy had never been dispens'd with, yet each of them when rais'd to the Papal Dignity was reckon'd to have dispensed with himself, so that he could be Pope notwithstanding his base Birth; for it seems very absurd, that he who can dispense with the default of Birth in others, cannot do so by himself, or that he, out of the plenitude of his power, can conferr a Benefit upon others, that he has not most fully, himself, as if a King could not reserve to himself the prerogative of the Royal Blood. But tis the general Opinion of all, that especially an Heir or Successor to a Kingdom, who is rightfully called to the Government of it, is intirely free from all the objections that might hinder the Successions of private men. *Solomon* says that *the King* or Blood Royal like the Sun dispelling the Clouds with his Beams, *scattereth the wicked*, and that *a King sitting in the Throne scattereth away all evil with his Eyes*. Prov. XX.

[f] L. Barbarius Philippus de officio prætoris.

Treason in the next heir does not hinder his Succession to a Crown.

It has doubtless obtain'd by custom, that the crime of Rebellion does not hurt the Successor, nor hinder him from inheriting the Kingdom. For the Princes of both Families of *York* and *Lancaster*, were often adjudg'd guilty of Treason, and yet notwithstanding they Succeeded to the Kingdom, as *Doleman* confesses. And in *France*, *Chilperic*, when he attempted to make himself King of *France*, having ejected his Brother *Cherebert* who was King at that time, was for that crime condemn'd and banish'd *France*, yet was he recall'd after *Cherebert*'s death, neither was he upon the account of his former Treason reckon'd unworthy to Reign. *Charles* VII. was, by the Sentence of the Parliament of *Paris* publicklybanish'd, and yet he Succeeded in the Kingdom. So his Son *Lewis* XI. was de-

clared to be a Rebell, and the Father intended alſo to diſinherit him, and to make his ſecond Son *Charles* Duke of *Normandy*, his heir; but the Nobility oppos'd it, telling him that ſuch a deed could not take effect; Seeing neither diſinheriting, nor baniſhment could exclude his Son from the Succeſſion; and this *Lewis* notwithſtanding his Rebellion did Succeed his Father in the Kingdom. Thus alſo did *Lewis* XII. tho he had been twice baniſhed for taking Arms againſt his Father *Charles* VIII, Succeed him. In our Country *Alexander* Duke of *Albany*, had been baniſhed by his Brother *James*, and adjudged guilty of Treaſon and yet his Son *John* was called home to *Scotland*, and declar'd Viceroy; much more had he been made King, had *James* V. died without heirs. Theſe are moſt plain arguments and examples that the impediments of Treaſon, foreign birth, or incapacity does not affect the Succeſſor of the Kingdom. For he who can free others from all crimes, and legitimate the baſe born, tho there be a Law againſt them; why ſhou'd not he be thought at the ſame time to have purg'd himſelf of all former faults, when by his meer word, he can take away *omnem juris infamiam*, all infamy that the Law has caſt upon any man; *omnem Sceleris notam*, every legal ſtain of a crime, and every incapacity, and pardon it by his own word alone, 'tis not to be doubted, but that he can revoke any thing done againſt himſelf, and render himſelf fit for the Succeſſion of the Kingdom, by poſſeſſing himſelf of his inheritance.

A King may be Judge in his cauſe in ſome Caſes.

Neither can that which is commonly ſaid, *nemo ſibi & ſuis jus dicet*, That is, *no man ſhould be judge in his own cauſe, or in his Friends*, be any argument againſt us. For a Soveraign can ſit as judge in his own cauſe, can even Legitimate his own Children; and alſo take off Eſcheatage, outlawry or any other legal blemiſhes, when he has no others to perform theſe judicial offices, nor any from whom he can demand Juſtice, or obtain a pardon or denization. Wherefore the King in all theſe caſes is judge for himſelf, and for his own Family. And if this, that is moſt true, holds in the crime of rebellion or treaſon, much more in foreign birth: For he, who can beſtow the rights and privileges of free Citizens upon others, is not only himſelf a Citizen, but alſo the Prince of them. Neither can there be a greater abſurdity, than to ſay that he, who beſtows naturalization upon others, gives more right to another than he has himſelf, or is not himſelf of that community; ſeeing no man can transfer more right to another than he himſelf has. Another far greater abſurdity would follow, that is, that he who can pardon and purge the faults of his anceſtors, to whom the charge of Treaſon, nor laſtly all his other crimes are no impediment, to debarr him from the Succeſſion, that yet meerly his being born without the Kingdom, or the bare inconveniency of the place in which he was born, ſhould prejudice him. For by the Law, *Cui, quod majus eſt, licet, multo majus quod minus eſt, He who can Lawfully do that which is greater, can much more do that which is leſs.* And he, who notwithſtanding any charge of Treaſon inherits the Kingdom as the true and rightful Heir of it, cannot have his foreign birth produced againſt him, as an incapacity, which at the ſame time is no fault of the perſon, but of the place. And it was never heard of before, that ever the default of the place, hinder'd him who was true heir, in his Succeſſion to a Kingdom.

CHAP.

Ano-

Another answer may also be given from the common practice of all Courts of Judicature to the objection of foreign birth, nay from the fundamental maxims of the Law it self. For by the Law contrary allegations are forbidden, and he who brings contrary things for his Cause, *In jure non est audiendas* [a], is not to be heard in Law: as he is not opposite to himself [b]. For two contradictories are inconsistent, so as he who has establish'd one thing, excludes what is contrary to and inconsistent with it [c]. Now supposing the positions, which I have premis'd true, I thus subsume. But the *English* have not stuck to affirm for truth, these four or five Ages, that *Scotland* is within the jurisdiction of the King of *England*, and that it's a Fief or fee Liege and owes Homage to *England*, and consequently is within the Dominions of it. Whence I assert this, that the *English* cannot now plead a thing, that is directly contrary to their own assertion, and which they have endeavour'd to confirm, with so much Blood and Slaughter; or if they make use of such a Plea, they are not to be heard.

The ninth Answer.

[a] Canon literas extr. de præsumpt. & C. de mu Pet. possess. lib. 10. Cod.

[b] Lib. de furtis.

[c] L. hæc verba de verb. signif. L. si legatum pure F. de adimendis legatis. L. quibus diebus §. quidam Titio F. de conditionibus & demonstrationibus.

But some of them may object, that tho we assert that *Scotland* is within the dependencies and jurisdiction of *England*, yet the *Scots* most constantly deny it, neither would they ever yield that point, of the King of *Scotland*'s being a Vassal to the King of *England*. I answer, that neither will they do it to this day, neither is the question, whether *Scotland* owes Homage to *England* or not, to be determin'd by this answer of mine: For it shall be consider'd in another treatise. But whether the *English* who have confidently asserted and said, that it's more true than any oracle at *Delphos*, that *Scotland* depends on the King of *England*, and publish'd their pretensions to it in the Edicts of their Kings, in their Books, Letters and Embassies before the Pope of *Rome*, and other Princes and Potentates, while this point was controverted, whether the *English* I say are to be heard, when they would plead the contrary and contradict themselves. But the Laws forbid such to be heard, after they have so often and in so many writings ratify'd the contrary, whether true or false is not now the question; For we only urge this from the order and nature of judicial proceedings, that no man who makes contradictory and inconsistent plea's is to be heard in that cause. This then is the true State of the question, King *James* VI. demands the Succession of the Kingdom of *England*, which is due to him, and to which he has an undoubted right by the Law of Nature and Nations, and by the Laws of *England* themselves, as being the Lawful Successor; They are against his Succeeding, because he is born elsewhere than in *England*, to wit, in *Scotland*, which is not within the Ligeance of the King of *England*. We answer, that they who make that objection are not to be heard, nor is that Defence which they make to be receiv'd; Seeing they bring for themselves, things manifestly contrary and inconsistent; They having witnessed the contrary of what they now plead, by so many Monuments, Diploma's or Writts, both judicially and extrajudicially.

An Objection Answer'd.

CHAP.

CHAP. IX.

Whether, ſuch as are born out of England, *be debarr'd from Succeſſion,* Ex jure conſuetudinario Angliæ, *by the practice and cuſtom of* England.

An Objection from the common practice and cuſtom of England *with relation to Foreigners.*

OUR Adverſaries, being Senſible that they are at a loſs in this controverſy, in the point of written Laws, and that they cannot find any Statute, any Law, or Ordinance upon record, by which the moſt Serene King ought to be excluded from the Succeſſion of his Anceſtors, they have their recourſe to conſtant cuſtom and practice, which is not only the beſt commentary on the Law, as they ſay, but is alſo reckon'd to be a Law; and to have the ſtrength of a Law, eſpecially in *England*, which is much govern'd by the cuſtomary Law, which they alſo call the Common Law; in this Law, they call that a conſtant cuſtom or axiome, and they ſay that it obtains every where in *England*, that Strangers are Secluded from demanding Inheritances in it, which they will have to be ſo true, as that if any Stranger begets two Sons of his Wife even in *England*, one before he is naturaliz'd or made a free Subject of *England*, and the other after he has obtain'd his freedom; they will have the Younger to Succeed, excluding the Elder, by that maxim, that he only is at the time of his birth legally qualify'd to Succeed, tho the firſt has the prerogative of primogeniture, ſo that in this Naturalization or Denizonſhip, the Firſt Born or Heir is not the Eldeſt Son.

An Anſwer to that Objection.

To which I anſwer, that that which is laid by our Adverſaries, as a Foundation or Maxim of the Common Law of *England*, is not ſo. I have already made it appear if I am not deceiv'd, that it is a common Law, not only to the *Engliſh*, but to all other Nations in *Europe*, that a Stranger or the Liege man of another Prince, ſhall not Succeed to an Inheritance in the Kingdom of another King, and that he has not the prerogative of primogeniture, who is Eldeſt, but he who is Born after his Father has acquir'd his denization, or is Naturaliz'd and made a free Citizen or Subject. And I added the reaſons why that was introduced by the Feudal Law, tho' at the ſame time, I do not think, that it was at firſt brought in by the Feudal Law; but that it was alſo practis'd by the Civil Law of the *Romans*, among whom the privilege of making a Will or Teſtament was allow'd to Citizens only: And if any thing was bequeath'd to a Stranger or one without the bounds of the *Roman* Empire, it became an Eſcheat and was confiſcated [a]. Yet this ſeems not to have been ordain'd, by the *Romans* only, but was rather the ordinance of all other Nations. For in the days of *Abraham*, when the men of *Sodom* had reſolv'd to abuſe *Lot*'s Gueſts, they upbraided him, when he protected thoſe Gueſts. *This one fellow came in to Sojourn among us, and he will needs be a Judge, Gen.* XIX. And the *Athenians* did

* *The* Engliſh *miſtaken, who think that Law againſt Foreigners to be peculiar to* England.

[a] L. 1. De hæredibus inſtituendis.

did ſtrictly obſerve that cuſtom, that none but ſuch as own'd themſelves and were reckon'd Citizens of *Athens*, ſhould enjoy the privileges of *Athenians* and rights of Citizenſhip among the *Athenians*. The privileges of the City were theſe, To be capable of Magiſtracy, to enjoy the Benefit of Law, to Succeed to Eſtates and Goods of Citizens, whether by Will, or to him that dyed Inteſtate. But indeed, by the Law of Almighty God, that difference between a Citizen and a Stranger ſeems to be taken away. *Thou ſhalt not vex a Stranger, nor oppreſs him*, ſaith the Lord *Exod.* xxii. 21. and *Ch.* xxiii. 9. *Thou ſhalt not oppreſs a Stranger.* And *Levit.* xix. 33, 34. *And if a ſtranger Sojourn with thee in the Land, thou ſhalt not vex him. But the ſtranger that dwelleth with you, ſhall be as one born amongſt you, and thou ſhalt Love him as thy ſelf.* I have taken notice of theſe few things only, that our Neighbours may know, that that Cuſtom cannot be ſaid, to be the proper or peculiar Law of *England*, but rather common to it with other Nations, and yet I cannot ſee the Equity of it, that what a Stranger has honeſtly acquired, in the Country where he Sojourn'd, ſhou'd after his Death be Confiſcated, or that the Exchequer ſhou'd be his Heir. But I have ſaid enough as to theſe things already.

What were the Rights and privileges of a free Citizen.

But for a more full Anſwer to this Maxim, 'tis certain, that by the common Law of *England*, Cuſtom has no place againſt the written Law. For Cuſtom only takes place, when the Judges are deſtitute of written Laws; nay by the Law of *England*, there never is place for theſe Maxims or Axioms of the common Law, but to ſupply the deficiencies of their written Laws, which are always chiefly regarded by them. But the written Law, in the caſe now under Conſideration, exempts entirely the moſt Serene Prince from all the Exceptions and Inconveniencies which attend Foreign Birth. For by that Statute of *Edward* the *Confeſſor*, who was the laſt of the *Engliſh-Saxon* Kings, the privileges of being free Citizens in *England*, were allow'd to all the *Scots*, by which they have right to uſe and enjoy the ſame Laws and Immunities, as the reſt of the *Engliſh* do. To this is added a much ſtronger and more forcible right, by that very Statute of *Edward* III. from which our Adverſaries draw their Arguments, by which they Endeavour to overthrow the right of the moſt Serene Prince: In that Statute by order of all the Eſtates *with one Aſſent*, it is expreſly provided, and declared, *That the Law of the Crown of* England *is, and always hath been ſuch, that the Children of the Kings of* England, *in whatſoever parts, they be born in* England, *or elſewhere, be able and ought to bear the Inheritance after the Death of their Anceſtors: which Law the King himſelf, the Prelates, Earls, Barons, and other great Men, and wiſe-men of his Council, after deliberation had upon this point; and all the Commons*, who repreſented all the People of *England*, *did approve and affirm for ever.* From this Statute then it's evident, that as I have ſaid, the written Law is expreſs for King *James*'s right. Wherefore whenever the written Law and cuſtom are oppoſite one to another, Cuſtom gives place to the written Law [a], ſeeing the written Law was introduced only for reforming Evil cuſtoms [b]. 'Tis true indeed, Cuſtom is the beſt Interpreter of the Laws, but if it be produced againſt the written Law, 'tis rather to be reckon'd oldneſs of Errour, than Cuſtom. Moreover, were this whole affair to be decided by Cuſtom, I have made appear already, that it makes for us; having prov'd that there has ſcarcely been any King in *England*, ſince the Conqueſt, who was not himſelf a Foreigner, that is, either of a Father or Mother, who were born out of *England*, or at leaſt I brought that Kings opinion and

Cuſtom does not take place againſt the written Laws.

[a] Bartol. in l. omnes, de decurionibus lib. 10. c. Bald. autem omnes. c. communia de Succeſſionibus

[b] L. eos §. Statutum & ibi doctores. c. de uſuris.

Judgment concerning ſuch of the Kings Off-ſpring as were born, without the Territories and Allegiance of *England*. And ſo a Special Cuſtom in one caſe, deſtroys the *Jus generale conſuetudinarium*, the general Cuſtomary Law, as in Law, ſpecial caſes always derogate from the Generals: But in cuſtomary or common Law, that cuſtom is chiefly to be relied upon, which has been confirm'd *judicio contradicto*, that is when after the thing is impleaded at a fair Trial, yet the Judge upon a full hearing gives Sentence for the cuſtom [a]. I ſhall bring one Inſtance from the Courts of Judicature in *England* themſelves and their Cuſtom, in this very caſe of ours, in which a *Scots* man was declared to be a Citizen of *England*, and the Language of the *Scots*, to be the common Language of *England*, after Counſel fully heard, before the Judge ſitting in Judgment. The matter was this, A certain *Scots* man was accus'd, before the Kings Bench Bar, of a Rape committed on a Virgin of Seven years of Age; the Criminal being brought to anſwer to that Accuſation, before the proper Judge, demanded the right that was commonly allow'd to Foreigners, to be granted him, to wit, to have the one half of the Jury, of his own Language or Country. For the *Engliſh* have that cuſtom, that when a Foreigner is accus'd of any Crime, the half of the Jury or Inqueſt uſes to conſiſt of Foreigners. While that *Scots* man alledged that he had a right to that Privilege as being a Stranger, to wit a *Scots* man, born in *Scotland*, the Judges of both Benches were conſulted in that affair, who gave anſwer, that the *Scots* man's deſire was not to be granted, for this reaſon; becauſe ſaid they, a *Scots* man never was reckon'd as a Stranger or Foreigner, but look'd on as an *Engliſh* man; neither can the *Scots* Language be reputed a Foreign Tongue, but rather meer *Engliſh*, and ſo the *Scots* man, was Judged by a Jury of *Engliſh* men. Whence it obtain'd by cuſtom, confirm'd by a Judicial proceeding, upon a fair Tryal and full hearing, that a *Scots* man was no Stranger or Foreigner [b]. And that by the Judgment of the Judges of both Benches, after the queſtion had been remitted to their deliberation. That queſtion, whether *Scotland* was within the Kingdom of *England*, or within the four Seas, as they ſpeak, was warmly debated between *John Stowel* and *George Zouche* Lord *Zouche* in St. *Michaels term* in the fourth and fifth years of the Reign of Queen *Elizabeth*, as *Plowden* in his Commentaries, tells us [c], to wit, Whether he who is in *Scotland*, can be ſaid to be out of *England*; reaſons were brought *pro* and *con*, tho' no Sentence paſt upon them, or Judgment made from them. And *Ranulphus de Glanvilla* [d], when he treats *de Eſſonijs* that is, Summons, he makes the *Eſſonium* of them, who are beyond the Sea, and of them who are within the four Seas different, to wit, that the ſpace of Forty days be allow'd theſe in Summons or Citations, but the time to be allow'd the laſt is left to the diſcretion of the Judge. Wherefore 'tis clear, that by the common Law of *England* (which we call the practice) it has always been taken care of, that *Scotland* ſhould not be reckon'd among the Foreign Countries, nor *Scots* men among Foreigners, as I ſhew'd before, from the Laws of *Edward* the *Confeſſor*, the laſt of all the *Engliſh Saxon* Kings ſave one, which Laws were alſo confirm'd by the *Conqueror* himſelf.

[a] L. cum de conſuetudine F. de Legibus.

[b] *In the caſe of* James Dayre in Term. Michaelis *in the* 13 *and* 14 *year of* Elizabeth, *in the* 51 *deciſion.*

[c] Plowden caſibus Regii banci.

[d] in lib. 1. Inſtit. *Angliæ.*

Where-

A recapitulation of all the reaſons, which exclude the objection of foreign birth.

Wherefore all the objections brought by our adverſaries, concerning foreign birth, have been by many ways and reaſons fully diſcuſs'd, and both the propoſition and aſſumption of that Syllogiſm, of which mention is made in the Second Chapter, are entirely ruin'd. For 'tis not true, that all who are born out of the Realm of *England*, are debarr'd from demanding their inheritance in *England*, but only ſuch as are Liege Subjects of another Prince, who are not admitted to demand a Fief that lies within another Territory, tho' it be devolv'd to them by Succeſſion, and ſo it only excludes private men from the inheritance of private men: Nor yet does it exclude all theſe, but only ſuch of them as are born beyond the Sea. And beſides theſe alſo the Kings Children who cannot be excluded from the inheritance which devolves to them from their Anceſtors, whereſoever they are born, are expreſly excepted. This has alſo obtain'd by conſtant cuſtom; ſeeing almoſt all the Kings of *England*, who have been rais'd to the Throne of that Kingdom, for Six hundred years laſt paſt, were either themſelves born elſewhere, and beyond the Sea, or interpos'd their own judgment, about admitting the heirs of the Crown to the Succeſſion, notwithſtanding their being out of *England*. This practice has been receiv'd both by the common Law, and by the Law of all other Nations, to wit, that Princes ſhould without all doubt, be admitted to the Succeſſion of Princes; and this has been receiv'd and judicially determin'd among the *Engliſh* themſelves. The Aſſumption alſo of that Syllogiſm falls to the ground the ſame way; For neither are the *Engliſh* to be heard if they ſhould now plead the contrary to what they themſelves have affirm'd in ſo many printed books, ratified with ſo much blood, and confirm'd by ſo many decrees. And the *Scots* by an expreſs Statute, are reckon'd among the *Engliſh* Subjects, and are entitled to the ſame privileges; Neither is any privilege, that's granted by a particular Statute, to any Nation, for good offices done, or, as they ſay, for a valuable cauſe, to be reckon'd revok'd, unleſs that privilege be expreſly revok'd, and in a ſpecifick form or manner; And therefore, by the rules of reaſoning, the conſequent enſuing from ſuch premiſes is alſo to be exploded.

Nothing that can prejudice the King's right can be inferr'd from that Syllogiſm, even tho' all it's parts were true.

And after all, ſhould we be ſo very good natur'd, in this diſpute, as freely to allow our adverſaries both the Propoſition and Aſſumption, and the concluſion, by wholeſale, I do not ſee what that conceſſion could advantage their cauſe. For the utmoſt that can be inferr'd from the premiſes, that is, from the propoſition and aſſumption of that Syllogiſm, is only this, that the moſt Serene Prince *James* VI. is not to be admitted to demand the inheritance of any Eſtate in *England*; but it is not any Eſtate in *England* that is now demanded. Nor is the controverſy concerning any Fief, 'tis *England* if ſelf that is demanded; The moſt Serene King aſſerts that it's Crown is rightfully and by Law due to him; neither is *England* it ſelf an Inheritance or Eſtate in *England*, but the body of all Fiefs, and of all the Eſtates which are in *England*: In which body the reſt of the Fiefs are, as it were ſo many members, contain'd and incorporated. So it falls not under the concluſion; For neither does it follow, The moſt ſerene Prince cannot demand any Eſtate that is Subject to the Kingdom of *England*, or that owes Allegiance to the King of *England*, therefore, he is not to be allow'd to demand *England* it ſelf. For neither is the Crown it ſelf Subject to the Crown, nor does it owe allegiance to it ſelf, as is clear by an evident example; All the Lands, all Fiefs are held

held of the King or Crown: But the Crown it ſelf is not held of the Crown, as neither is it held of any other, as *Martial* ſays,

Qui Rex eſt, Regem maxime non habet.

That man's a King and he alone
Who ne're can a Superiour own.

And as long as the Succeſſor of the Crown is not known, ſo long alſo is the Lord of all the Eſtates, which are under the Crown, unknown; becauſe he cannot be a King or Soveraign without the Crown, neither can the King hold of himſelf, nor owe Allegiance or fealty to himſelf. For that fealty is nothing elſe, but ſervice, and a kind of Liberal or free Servitude, to wit, Military. But Servitude in Law is only *in rebus alienis*, has reſpect to other men upon the account of their Eſtates. Neither can that which is ones own be ſaid to ſerve him. Neither can a King nor his Crown, owe Service or Allegiance to any, for it ſelf is the Crown, to which Allegiance is due, and none is due from it. Indeed if the Crown be, as it were, the body of the whole community to which the next in Blood is called, yet it cannot be properly called an inheritance, nor he who Succeeds Heir; becauſe he does not Succeed to the Right of one, but to the Right of the whole body; and the body which he repreſents, cannot be contain'd under the name of a private Eſtate; I remember to have read in *Bodinus*, a very ingenious Writer, and who was well Skill'd in the affairs of *France*, when the *Helvetians* demanded of *Charles* IX. the payment of ſome hundred thouſands of Crowns, which his Father *Henry* II. ow'd them; The King anſwer'd that he did not Succeed to the Kingdom, as to an inheritance, neither was he Heir to his Father, ſeeing he Succeeded in *Corpus Coronæ* to the body or bulk of the Crown, and not to the Eſtate of any private man; So that in Law he was not bound: Nevertheleſs for the friendſhip, that had been between his Father and the *Helvetick* body, he would ſee it done[a]. And among the *Engliſh*, foreigners are in no wiſe forbidden to demand ſuch things, as are due to them, upon the account of that body or community, to which they Succeed. And ſo if the Conſequent, and all that's contain'd in it, was granted to our Adverſaries, they can never inferr the excluſion of the moſt Serene Prince from that Succeſſion, which by the Laws of *England* is due to him.

[a] Bodinus lib. de Republica cap.

CHAP.

CHAP. X.

Doleman's *firſt Reaſon, for the right of the Family of* Lancaſter, *by which he aſſerts that the Second Son ought to be preferr'd in the Succeſſion of the Paternal Kingdom, to the Grandſon by the firſt born deceas'd, confuted.*

THe objections which are made from the laſt Will and Teſtament of *Henry* VIII. and from the alledged Guilt of the moſt Serene Princeſs, *Mary* Queen of *Scotland*, and that Act, that they call the Aſſociation, theſe being common to *Doleman* with his other Cavils, I reſolv'd to Anſwer them both together. But if I happily ſhall ſeem to any, to have been too Prolix in the Refutation of that Objection about Foreign Birth, they will not wonder at it, notwithſtanding that *Doleman*, leaves that Objection almoſt untouch'd, or at leaſt, confeſſes that it is reckon'd weak, and ſays that it's generally look'd upon to be of no moment, not ſo much from any kindneſs, or good will, to the moſt Serene Prince King *James*, but as well knowing, that if there was any ſtrength in that Objection, it could be alſo turn'd againſt the King of *Spain*, and his Siſter, and Ruin their Pretenſions. And tho' with a Phariſaical Hypocriſie, he pretends and makes a Proteſtation, in the firſt part of his Diſcourſe, that he had nothing in his view in medling in this affair, but to ſearch after truth, yet no man, that conſiders how much his undertaking tends to oppoſe and ſubvert Truth and Right, can be Ignorant of his deſign. For he makes his utmoſt effort for this one thing, to promote the *Spaniards* and Papiſts, and Right or Wrong, to caſt down, and Exclude the Maintainers and Profeſſors of the true Reform'd Religion, from their Place and Dignity. He carries on the ſame deſign in his ſecond part, to wit, to perplex and darken that queſtion about the Succeſſion of the Kingdom, with ſo many intricacies and difficulties, that the People being unhing'd and doubtful in their minds in this matter, may beſtow the Kingdom on whom they will: Aſſuring himſelf that if this affair ſhould come to be decided by Popular ſuffrages, the number of the *Roman* Catholicks in *England* is ſo great, that the *moſt Catholick King*, or at leaſt his Siſter, the *Infanta*, could not fail to obtain the Kingdom, and ſo of an Hereditary he would make an Elective Kingdom, and invert the whole Form and Conſtitution of the Engliſh Monarchy.

Doleman's deſign is to make way for the King *or the* Infanta *of* Spain *to the Kingdom of* England.

Purſuant to this deſign, his firſt buſineſs is, to muſter up many Competitors. He mentions ſeveral Books written, as he ſays, to favour the Pretenſions of theſe Competitors, yet ſo as that every one of theſe Authors aſſerts the Right of the Perſon he favours. To what end is all this buſtle? Unleſs it be to perſwade all men, that this queſtion concerning the Succeſſion, is obſcure and perplext, ſeeing ſo many Books have been already written upon it, with different aims, and aſſerting contrary Titles. Neither can he have any other deſign, in going ſo far back in his reckoning of the deſcendants from *William* the *Conquerour*, but thereby to con-

The way that Doleman *takes for compaſſing his main deſign.*

found that queſtion with the obſcurity and darkneſs of Genealogies, and the number of Candidates, that the people who ſometimes are too Credulous, and diffident of their own Judgment, may be undetermin'd, and not know where to fix. Why does he mention *Robert* the Eldeſt Son of the *Conquerour*, when he and his whole Iſſue have fail'd a great while ago? The ſame thing may be ſaid with relation to the Duke of *Britany* and his Off-ſpring. Truly in my Judgment this Counterfeit *Doleman*, has not in this Book of his, acted the part of a good man, he had been better advis'd, and his undertaking had been more for the Intereſt of his Country, had he unfolded and explain'd to us the difficulty and intricacy of this queſtion (if there were any in it,) and ſhewn us clearly who is the True and Rightful Succeſſor, to whom the Inheritance of ſo great a Monarchy belongs, than by involving the truth in ſuch Clouds of darkneſs, by ſuch means to produce doubtful Competitors, and thoſe that are very Powerful upon the Stage, and to furniſh each of them, with Arms wherewith to deſtroy one another. But 'tis moſt ſurpriſing to find him recal to Light again from the dark Shades, that moſt Tragical Controverſy, between the Families of *York* and *Lancaſter*, which has been at length aton'd and Purged with vaſt effuſion of Blood, and exceſſive Slaughter. Should ſuch Tragedies be acted over again, which God forbid, to whom could the reviving of ſo great and dreadful a Civil War be imputed, but to this Hypocritical Fraternity of the *Jeſuites*? But I ſhall forbear to ſay any more, untill I come to that part, in which the Right of the Houſe of *Britany* in *France*, and of *Iſabella* the *Infanta* of *Spain*, now Spouſe to the Arch Duke of *Auſtria*, comes to be conſider'd and confuted, and ſo at preſent leave to *Doleman* untouch'd, whatever he has ſtuff'd his firſt three Chapters with, to wit, all the written Books, that he brings: And it ſhall be made appear that the Genealogy of the Kings of *England*, as well before *Edward* III. as of thoſe Deſcended from him is True and Right.

Two wilful omiſſions in Doleman.

Yet two things muſt not be paſs'd over, the firſt is, that *Doleman* may remove the Kings of *Scotland* from the Succeſſion of *William* the *Conquerour*, he omits to mention the Wife of *Waldeoff* Earl of *Northumberland*, who married one of *William* the *Conquerour*'s Daughters, as our Hiſtorians ſay, tho *Holinſhed* makes her only a Niece. But *Judith* was the only Child and ſole Heireſs of this Marriage, who was given in Marriage by *Maud* the *Empreſs* with the County of *Northumberland*, to *David* King of *Scotland*, in conſideration of the aſſiſtance that he had afforded her, againſt her Rival *Stephen*. *Doleman*'s other omiſſion, is, that in all the Genealogies and Deſcents that he muſters up, he takes no notice of *Joanna* Daughter of *John* firſt Earl of *Somerſet*, whom *James* I. King of *Scotland* married, by which Marriage alſo our Kings, even by the Succeſſion of the Family of *Lancaſter*, ought to be preferr'd to the lines of *Portugal* and *Caſtile*, and to the race of *Conſtantia* Wife to the Prince of *Britany*. But *Doleman* can never ſufficiently ſatiate his implacable hatred againſt the moſt Serene Prince King *James* VI. For he is not leſs guilty of falſehood, who in ſuch caſes conceals the truth, than he is who relates and aſſerts untruths. All that I deſire of the candid Reader, is only not to believe the Calumnies and Lyes, by which *Doleman* detracts from, and injures the party that he oppoſes, untill this queſtion be fully canvaſs'd, ſo as it may appear in a true light.

Having

The family of York's *right to the Crown, confirm'd by two Parliaments.*

Having dispatch'd these few things, which may serve for Answer to the three first Chapters of *Doleman's* Second part, I come now to his Fourth Chapter, and to consider the point of Right, tho' that question seems to have been decided and quite extinguish'd a long while ago, after a long and sharp dispute, between the Families of *Lancaster* and *York*. And seeing the series of the Line of *York*, is not only most clear in it self, but was also declar'd to be so by many Parliaments, especially by that Parliament, in which *Roger Mortimer* was declar'd to be the true Heir of the Kingdom, which was held in the Ninth year of *Richard* II. And in another Parliament that was held in the Thirty ninth of *Henry* VI. Nevertheless *Doleman* starts up to support and confirm the Duke of *Lancaster*'s Right, and to Exclude the Title and Right of *York*, by Ten reasons, three of which he reckons to be most strong and Irrefragable, so that he purposely laying this for a Foundation, that the Right of the Family of *Lancaster* is better, than that of *York*, may raise thereupon that Superstructure, that King *James* is not of the Family of *Lancaster*, or at least that the Kings of *Portugal* or *Spain*, are before him in that Line, and by consequence preferable to him.

Doleman's *Ten reasons, by which he endeavours to confirm the right of the family of* Lancaster.

The first reason that he brings, is altogether from Law, to wit, that in the Succession, the second Son, is to be preferr'd to the Grand Son, by the Eldest Son deceas'd, and in Consequence that *Richard* II. ought not to have Succeeded in the Kingdom to *Edward* III. his Grand-Father, but that the Kingdom, ought to have Descended to the Duke of *Lancaster* the second Son of this *Edward*. His second reason is, that tho' the Right of *Richard* II. the Grand-son, to *Edward* III. by his Eldest Son, had been better than that of *Lancaster* his Uncle, yet *Richard* for the intolerable faults of his Government, being depriv'd of all Regal Dignity, *Henry* Duke of *Lancaster* was rightfully put in his place, as being in degree of Blood, next to him. His third reason is, that tho' the Duke of *Lancaster* had possess'd himself of the Throne contrary to Right, yet he acquired a Right to his own Family by prescription of years. I shall be at the Pains to answer these reasons, which seem to be of some more importance than the rest of his triflings; and in this method, to wit, the first reason in the first place, and the second in the second, following the order of Nature: For 'tis in vain to enquire whether or not *Richard* was Lawfully or Unlawfully Dethron'd, and who ought to have been advanc'd to the Throne in his stead, if *Richard* was an unlawful King, and that another had a preferable Right to him, in the Succession of the Kingdom, tho' *Doleman* inverts the order that he had laid down.

Whether or not the Second Son is to be preferr'd in the Succession, to the Grandson by the eldest Son deceas'd.

As to the first point, *Doleman* reckons that he has prov'd, that the second Son ought to be preferr'd in the Succession to the Father, before the Grandson by the Eldest Son deceas'd, and that as well by Law and the Authority of Lawyers as by examples. And truly as for Law, he brings not so much as one instance, tho this whole question is concerning right and ought to be determined by Law; neither brings he one Lawyer that favours his opinion, except *Bartolus* alone. I do not altogether deny what he says of *Bartolus*, and of the Doctors, that sometimes this question has been controverted; but I have often heard in the Schools, that there is no opinion so groundless or extravagant, that has not some Doctor to countenance it: Nevertheless as many of them as I have read, declare for the right of the Nephew against the Uncle in the Successions, which descend by the right of Blood and Nature. This question has been

been particularly treated of, by moſt learned men, ſuch as *Hotomannus Tiraquillus*, *Bodinus*, but more fully by *Joannes Cirierus* [a] and *Gregorius Tholoſanus* [b]. Neither is there any of them that does not conclude for the Nephew againſt the Uncle. For as for *Bartolus* I can bring ten Authorities from him for us, for this wreſted one that *Doleman* adduces. But let us examine that one that is brought by him, *Bartolus*'s words are theſe [c], *Poſt fratres fratrumque liberos vocantur qui gradu ſunt proximiores, ut pares in gradu pariter admittantur, ſublata differentia maſculorum & fœminarum, ſola namque cognatio ſpectatur in talibus*, that is, *After the Brothers, and the Children of the Brothers, ſuch as are next to them in degree of Kindred, are called to the Succeſſion, ſo as theſe who are in the ſame degree are admitted a like to the Succeſſion, whether males or females; for in ſuch, Kindred is the only thing that's minded.* This Text ſpeaks only of the Succeſſion of the Brother, to the Brother, and upon the Brother's failure, then they who are next of kin.

[a] In ſuo tractatu de primogenitura.

[b] In 7. lib. de rep. cap. 10.

[c] Authentic. poſt fratres. c. de legitimis hæredibus.

Moreover tho' what he aſſerts was even true in Succeſſion to the Father and Grandfather, yet the right of repreſentation is always reſerv'd. Indeed the Text whence theſe *Authentica* are taken, which is the *titulus primæ collationis*, does not plainly admit the Children of the deceas'd Brothers to the place of their Parents, as that the Nephew ſhou'd have as great a Portion of the inheritance of the deceas'd, as the Son wou'd have receiv'd had he been alive. However, the Text does not make for the deciſion of this queſtion, in favour of *Doleman*'s poſition; For the words of *Bartolus*, of which this vain boaſter glories ſo much, are theſe *Ex iſta authentica habes, quod filij ſuccedunt in bonis Patris ſui tantum, quando tractatur de Succeſſione patrui vel avi, ſecus ſi tractatur de Succeſſione aliorum.* That is, *You learn from that Authentic, That Children only Succeed to the effects of their Father, when it treats of the Succeſſion of the Uncle or Grandfather, but it's otherwiſe with reſpect to the Succeſſion of others.* And this may be ſaid in relation to the caſe, that was between the King of *Hungary* and King *Robert*. The King of *Hungary* was the Son of *Charles Martel*, who was the firſt born, *Robert* was born next to him. The queſtion whether after the death of the firſt born the Kingdom belong'd to his Eldeſt Son, or to *Robert*, who ſeem'd now to be the firſt born. And truly ſeeing the Kingdom of *Naples* was a Fief of the See of *Rome*, it is not poſſeſsed by right of Succeſſion, but by the grant or conceſſion of the *Pope*, who is the Superior of it, as in the firſt Chapter, *De Succeſſione Feudi*. Thus far *Bartolus*, and he goes no farther. Now *Doleman* doſt thou not ſee, unleſs thou art blind, that *Bartolus* has left thee quite naked, and that thy caſe is very deſperate? But *Bartolus* himſelf is not to be believ'd, when he is deſtitute of a Text, much leſs if he manifeſtly contradict the Text. But the Emperour *Frederick* did firſt adjudge the very Succeſſion of that Kingdom to the King of *Hungary*, as being true heir of it, which Sentence Pope *Clement* V. afterwards retracted. And notwithſtanding that *Clementine* deed was inſerted in the books, yet the King of *Hungary*'s Grandſon obtain'd the Kingdom, which rightfully belong'd to him, as I ſhall ſhew hereafter. But *Bartolus* that he may there excuſe the Sentence of the Pope in that affair, does plainly diſtinguiſh between the Law of Succeſſion, and the Law of the Fief; the firſt, ſays he, is to be interpreted according to the compact that has been made, between the Lord or Superior and the Vaſſal, whereas the laſt is to be interpreted

Bartolus's words.

Bartolus *ſpeaks of the tenure of Inveſtiture and not of the right of Succeſſion.*

preted by the Common Law and right of Succession. For in Fiefs, the Nature or constant settled order of the Investiture, is always to be follow'd, so as what is express'd in it, is to be reckon'd instead of a Law, tho' it be otherwise in Succession. That whole Controversy had its rise entirely from the injustice of the Popes decision: For indeed the decrees of Popes were in those days as so many Oracles, to dissent from which was thought Impiety; and when the Lawyers durst not Condemn them openly, they Endeavour'd by Distinctions to mollify and temper them. But *Bartolus* says plainly in another place, that every man has right to Succeed to every thing that his Father had Succeeded to, if he had been Alive. So *Bartolus* says, that the Grand-son Succeeds to his Fathers place, *quoad gradum*, and as his Father held the first degree, so his Son holds the same degree, the Father being Dead [a]. In like manner *Bartolus* says, that the Grand son by the Deceas'd Son, Succeeds equally to the Grand-Father, with his Son that's Alive, which is to be understood of a Succession, that can be Divided, but when the Succession is indivisible, as the Father ought, so does the Son Succeed in the Inheritance [b]. But of all the places in *Bartolus*, this is most clear, if the Grand-son could tear or destroy the last Will of his Grand-Father after his Death, then says he, the Son being taken out of the way the Grand-son holds the place of his Father in the Succession [c]. And in many other Places, *Bartolus* affirms plainly, that the Grand-son enters into the place of his own Father in the Succession [d]. And as I think, it will never be found that *Bartolus* allow'd the Uncle to be preferr'd in the Succession, to his Nephew by his Eldest Brother. For the Substitute is always in the place of him, to whom he is Substituted [e].

As for *Alexander*, *Decius*, *Alciatus* and *Cujacius*, this Juggler does not so much as cite one single Testimony from them, lest he should be catch'd in a Lye. *Cujacius*, as far as I know, does not in any of his Works, so much as once touch this question. *Decius* indeed treats of it, and says, that it was determin'd by the King of *England*, with advice of his Parliament, that in a Kingdom, what Nature bestows is always to be given to and adjudg'd for the Grand-son [f]. *Alexander* speaks not of that Succession which is by Nature, but only of that which is appointed by the Last Will of a Testator, as when the Testator leaves any thing to his Eldest Son, the second Son Succeeds to that, in case the first Born dies before his Father [g].

The words of *Alciatus* are these, [h] 'Tis certain, that the Son of the first Born, is not to be preferr'd by the Law of the Popes, in the Succession of the Grand-Father's Kingdom, before his Uncle that's Elder than he, and yet when this Controversy was twice decided by Duel in *Germany*, in the Reign of the Emperour *Otho*, the Uncle was overcome. Yet it's strange, why he says by the Law of the Popes or Pontifical Law, when there is not so much as one word in all that Law, concerning the Preference of the Uncle: Neither does that *Clementina pastoralis* [a] make any mention of that question; it only revokes that Sentence of the Emperour *Henry*, that was given against the same *Robert*, upon the account of several defects in Law. Neither does *Alciatus*, that I know of, in any other place make mention of that question. Nay this affair of the Succession, does not properly belong to the Canon Law. And therefore I may truly affirm, that no Doctor of the Law, preferrs the Uncle to his Nephew by the first Born Son deceas'd, in the Succession of a Kingdom, which descends by the right of Blood and Nature, whatever lyes *Doleman* may tell about it; or *Willielmus Benedictus*, to whom *Doleman* seems

[a] L. si avus C. de lib. præteritis & exhæredatis.

[b] L. ut inter testatorum C. de suis & legitimis.

[c] L. Posthumorum de rapto & irrito Testamento.

[d] L. 3. §. si duos f. de bonorum possessionibus.

[e] L. si eum §. qui injuriarum f. si quis cautionib. L. 1. §. hoc. si quis testamento liber esse jussus est.

[f] Consilio 443.

[g] Conf. 4. lib. 4. consul.

[h] In lib. de sing cert. c. 7.

[a] De re Judicata.

to yield an implicit aſſent, that he may upon his Credit produce Doctors of the Law at ſecond hand, whoſe works he himſelf never read. But it's ordinary for that Society to diſſemble and lye thereby to ſuppreſs the Truth.

But ſeeing this whole queſtion, which we are now upon, is about the Succeſſion of the Kingdom of *England*, it is therefore to be Determin'd by the Law of *England*, and the Cuſtom of Succeſſion to that Crown, whence we are to form our Judgment, concerning the *Right of Repreſentation*, and I make no doubt, but from thoſe writings which I have read, nay from the Aſſertion of *Doleman* himſelf, and of *Decius* whom he cites for his purpoſe, who reports the above cited Judgment given in *England* in this affair, that this Law or *Right of Repreſentation* has been the conſtant uſe and Cuſtom of *England*, always was and to this day is. Neither can he, nor any other Perſon, bring one Inſtance to the contrary, in which that Right of Repreſentation was ever rejected, either in the Succeſſion of the Crown, or of Private men. I mention'd two examples for it in the Succeſſion, one in *Arthur*, who was Son to *Godfrey* Duke of *Britany*, who in the Succeſſion of the Dukedoms of *Normandy* and *Poictou* was preferr'd to his Uncle, by the Sentence of *Philip* King of *France*, and was inveſted by him, in theſe Dutchies, as Lawful Heir of *Henry* II. and preferr'd to his Uncle King *John*. The ſame thing was done in *England* in his caſe, by the deciſion of his Uncle *Richard* I. tho' the Nephew was one degree farther remov'd; ſo this *Right of Repreſentation*, was never Controverted in *England*. The other inſtance was in *Richard* II. who Succeeded in the room of his Grand-Father *Edward* III. the Duke of *Lancaſter*, who was at that time, the ſecond Son of *Edward* III. at leaſt was then Alive, and gave his conſent and approbation to the advancment of the ſaid *Richard* his Nephew to the Throne of *England*.

I remember that in my Treatiſe *de feudis*, I affirm'd from *Girardus* and others, that the Law which the Engliſh make uſe of at this day, is not that Ancient Law of the *Engliſh Saxons*, but the feudal Law, and brought in by the *Conquerour*, as his own Law, which he had made uſe of before in *Normandy*, and which was written in the *French* or *Norman* Language. But in the Feudal Law *Nepos ſemper intrat in Locum ſui Patris*, as they ſpeak; that is, the Grand-ſon always repreſents, and comes in the place of his own Father [a]. And *Willielmus Terremus*, who wrote very fully of the *Norman* cuſtoms, bears witneſs, that the *Normans* always us'd that Law, and *ut Patris gradum filij ſubeant* [b]. That Children ſuſtain or bear the degree or Precedency of their Father. And, as the gloſs upon that place ſays, as the Son obtain'd the firſt degree, ſo does the Grand-ſon by him, the Son being remov'd by Death or otherwiſe, hold the firſt degree or place. Which he alſo confirms there by the Authority of *Bartolus*, and ſo by the Law of the *Normans* and of the *Engliſh* which was brought from *Normandy*, 'tis certain that the *Law of Repreſentation* always took place. But *Juſtinian* moſt plainly, treating particularly of this very queſtion [c], concludes thus, *That if any of theſe Deſcendants happen to die, leaving Children, his Sons, or his Daughters or other Deſcendants Succeed in the place of their own Father, ſive poteſtate defuncti ſive ſuæ poteſtatis inveniantur, whether they were in the Power of the Deceas'd or out of their Father's Family, and in their own Power, receiving as great a Portion of the Eſtate or Inheritance of the dying Perſon, as their Parent was to have receiv'd, had he been Alive.* And he is yet more expreſs in another place [d]. *When there is a Son or a Daugh-*

[a] Tit. de ſucceſſione feudi in initio de feudis lib. 7. & c. 1. De natura ſucceſſionis in feudo C. 1. de gradibus ſince. in feud. in pr.

[b] Tit. 2. lib. 6. Conſtitut. Normannic.

[c] Novella de hæredibus ab inteſtato venientibus §. ſi quis autem collatione 9.

[d] §. cum filius Inſtit. de hæreditatibus quæ ab inteſtato.

Daughter, ſays Juſtinian, *and by another Son there is a Grand-ſon or a Grand-Daughter, they are equally called to the Succeſſion of the Grand-Father, neither does he who is a degree nearer, Exclude him, who is a degree farther remov'd*; For it ſeems to be very juſt, that Grand-Sons, and Grand-Daughters ſhould Succeed in the place of their Father, if the Grand-Son and Grand-Daughter, be by a Son, and the Great Grand-Son and Great Grand-Daughter by the Grand-Son are equally called to Succeed: The reaſon is added, becauſe it ſeem'd good, that Grand-ſons, and Grand-Daughters, and alſo that Great Grand-ſons, and Great Grand-Daughters, ſhould Succeed in the place of their Parents. What could have been more plainly or openly ſaid? For by the *Roman* Law, all are equally called to the Succeſſion, if one of the Sons be Dead, then the Grand-ſon came in his place, and ſo is admitted to the Inheritance of his Grand-Father, as his Father would have been: And this is call'd by the Doctors in Law, the *Right of Repreſentation*, becauſe the Grand-ſon repreſents the Perſon of the Son Deceas'd. And this is not only receiv'd for Common Law, through all *Britain*, but alſo among all the moſt famous Countries in the Chriſtian World, it is reckon'd and kept as an inviolable and Fundamental Law, (as they call it) in Succeſſion. Neither ſhall we find one Text in all the Bodies of the whole Civil or Canon Law, that's contrary to this *Right of Repreſentation*.

One only difference is to be taken notice of, which is this, That by the Civil Law, Sons are all equal in the Succeſſion of the Father, and the Grandſon by the firſt born Son Succeeds only to the ſhare of the firſt born Son; But as at this day by the Law of *Britain*, the firſt born Succeeds as *Hæres ex aſſe* or univerſal Heir to his Father, juſt ſo does the Son of the firſt born Succeed to his Grandfather. And *Caius* is not leſs clear in this point, If my Son, ſaid he, dies in my life time, or departs any manner of way out of my Power, my Grandſon or Grand-daughter begin to Succeed in his room; and ſo, as it were by Lineage or Kindred by the Fathers ſide they acquire the rights of their own heirs. I can bring almoſt innumerable citations from the written Law, by which the Son being dead, the Grandſon gets the ſame ſhare in the Succeſſion, that his Father ſhould have receiv'd, had he been alive. To what purpoſe then ſhou'd we trouble our ſelves farther with the Doctors of the Law, whenas the Text it ſelf evidently contradicts the Succeſſion of the Father of *Lancaſter*, and Authorizes the Succeſſion of *Richard* II. who Succeeded in the place of his deceas'd Father who was the firſt born, as Grandſon to *Edward* III. to the Kingdom of *England*. For the Doctors are no farther to be believ'd, than they have Texts from the Law to confirm their poſitions, or conſtant cuſtom for them; And yet we ſhall not find any of the Lawyers ſo regardleſs or laviſh of his reputation, as to give the preference to the ſecond Son, in Succeſſion to the Father, before the Grandſon, by the firſt born deceas'd, in an Inheritance that is not to be divided. But that I may not ſeem to call in queſtion an uncontroverted truth, or to labour a point that has been ſo often decided, and to fill my book with the opinions of the moſt learned men, leaving the Law point which makes evidently for *Richard* II. againſt *Lancaſter*, let us come now to examples.

The example of King Robert *examin'd.*

And I begin with that example of the King of *Apulia* or *Naples*. *Bartolus* [a]. who favours the Pope, whoſe Subject he was, endeavours to invalidate or excuſe this example; And the pretext that that Doctor makes uſe of is, that the Sentence which was given by the Pope in favour of *Robert*, was grounded in the nature and condition of the inveſtiture, and was not according to the Laws of Succeſſion *. And *Baldus* ſays, that the Pope in that Sentence was rather Partial than Apoſtolical, and that he knows not whether the Pope determin'd in that caſe according to truth, ſeeing in that *Clementina*, there are ſome things, ſays he, according to the truth of Law, and ſome things which are not [b]. There are many others of the *Italian* Doctors, who plainly aſſert that what was done was contrary to Law. Others of them that it was done, becauſe this *Robert* was another *Solomon*, as being a moſt wiſe man. Others again, becauſe the Pope thought that the Kingdom of *Hungary* was enough for the Grandſon *Charles*. And upon that account, theſe things were done that the Pope might not be obliged to take him for a Vaſſal, whom he cou'd not compell to do the Service of a Vaſſal, and therefore having follow'd *Bartolus*, they believ'd that the Fief might be adjudg'd to *Robert*, who was ready to do all the duties of a Vaſſal, and who cou'd be compell'd to perform them. *Joannes Cirierus* profeſſor of the Canon Law at *Paris*, oppoſes theſe Lawyers and names them, tho' moſt of them were obſcure and deſpicable, and confutes their opinions [c].

[a] Authent. poſt fratres C. de legitimis hæredibus.

* Ex vi pacti in inveſtitura contenti; & non ſecundum jura ſucceſſionis lata.

[b] In L. liberti C. de jure Libertorum.

[c] In tractatu de jure primogenituræ.

But let us ſee what was the judgment of other men in this controverſy, and finally what King *Robert* himſelf, to whom the Succeſſion was adjudg'd thought of it. For had that Sentence been juſt in the Succeſſion of *Naples*, it muſt have held alſo in the Succeſſion of *Hungary*, for the ſame *Charles Martel* was both King of *Hungary* and *Naples*, or at leaſt had an equal right to both Kingdoms. But he did Succeed in the Kingdom of *Hungary* to his Grandfather, as being Grandſon by the firſt born Son, *Robert* the ſecond Son being rejected. Therefore he ought alſo to have Succeeded in the Kingdom of *Naples*, for the ſame reaſon that took one of the Kingdoms from him, might have taken the other alſo. But what is *Robert*'s own judgment in this affair? The ſame *Robert*, as *Oldradus* ſays, [d]. in the contingency of the ſame caſe, to wit, concerning the Earldom of S. *Severini*, where *Robert* being made Arbitrator, when he had appointed a Council to meet at *Avignon* upon that affair, he in the preſence of the Cardinals St. *Mary in Aquina* and St. *Theodore*, gave Sentence in favour of the Grand-ſon, that is the Son of the firſt Born Deceas'd, againſt his Uncle. Moreover tho' *Robert* himſelf by the decree of the Pope, had purchas'd that Sentence in his own favour, all things being expos'd to Sale at *Rome*, nevertheleſs having only three Grand-daughters, by his only Son *Charles* who was dead, he left the Kingdom to his Eldeſt Daughter *Joanna* upon that condition, that ſhe ſhould marry to *Andrew* Son of his Nephew (of whom he had got the better in the Succeſſion of the Kingdom by the Popes Sentence) and he left the Kingdom in common to them both, all their life, as well knowing he had not a good right to the Kingdom, and for that reaſon was much troubled in his conſcience, as *Girardus* who relates this hiſtory ſays, which this *Doleman*, according to his wonted candor ſuppreſſes. Yet the Emperour *Henry* had firſt adjudg'd the right of that Kingdom to *Charles* the Grand-ſon. But let us take notice whether the Emperour

[d] Oldradus conſ. 224. Joannes de Landuno.

Robert *himſelf in two ſeveral inſtances condemned the Pope's Sentence.*

or

or the Pope's Sentence in that affair, was moſt acceptable to God, who is Supreme Judge of all; *Robert* left no Heir Male to Succeed him in the Kingdom, which he wickedly acquir'd, but three Grand-Daughters, *Joanna*, *Mary* and *Margaret*. *Joanna* by the appointment of her Grand-Father Married to *Andreas* Son to the King of *Hungary*, who not being able to Satisfie her inſatiable Luſt, was by means of her Strangled, after they had Reign'd together three years. But I ſhall ſay ſomething more of this *Joanna* by and by.

His ſecond example, for which he cites *Girard*, is that *Lewis* of *Tarranto* Son of *Philip* younger Brother to King *Robert*, who was preferr'd to the ſaid *Joanna* in the Succeſſion of the Kingdom of *Naples*, becauſe he was one degree nearer to *Robert*, as being his Brother's Son, and a man, and ſhe only his Grand-daughter. 'Tis hard to ſay, whether the folly or impudence of this Author, *Doleman*, is moſt to be wondred at. His ignorance is ſhewn in ſaying that the Brother's Son or Nephew was preferr'd to the Niece once remov'd, deſcending by the Brother; For it was never allow'd, that any of the collaterals ſhould be preferr'd to the deſcendants in the ſtraight line. His impudence appears, in his aſſerting that *Lewis* was preferr'd to *Joanna*. Have the *Jeſuites* a liberty not only to wreſt and pervert the Sacred Scriptures, but alſo all Hiſtories? This *Lewis* of *Tarranto*, was never preferr'd before *Joanna*, but *Andreas*, as I ſaid, being kill'd, *Joanna* took this *Lewis* for her Husband, he being reckon'd the moſt potent among the young men. That ſecond Marriage was ſo infamous, that even the Memory of her Grand-Father *Robert*, to whom the Kingdom had been adjudg'd by the Pope, came to be had in Abhorrence by all men, as *Pandulphus Collenucius* who wrote the Hiſtory of *Naples*, bears witneſs. But *Lewis* King of *Hungary* and Brother of *Andreas*, made a deſcent into *Italy* with an Army, to revenge the Murder of his Brother, that had been Strangled, as was ſaid before, takes *Naples*, *Joanna* with her Husband *Lewis* having fled into *France*, and this *Lewis* caus'd *Charles Durazzo*, the Adulterous Gallant of *Joanna*, to whom ſhe her ſelf had entruſted the Government of the Kingdom before her departure, to be Beheaded. But the King of *Hungary* being forc'd to leave *Italy* for the grievous Peſtilence that raged in it, return'd to his own Country, and being appeas'd by Pope *Clement*, ſuffer'd *Joanna* and her Husband *Lewis* to enjoy the Kingdom during their Life. The Pope got the City of *Avignon* as the price of his Favour and Sentence, that he had firſt given for *Robert*, which at that time was made the Rival of *Rome* it ſelf, and became alſo the Seat of that Pope *Clement*, when that grievous Schiſm began between this *Clement* and Pope *Urban*, which laſted 70 years.* But neither could this *Lewis* of *Tarranto* enjoy the Kingdom and his Marriage more than Three years, being quite Exhauſted with the Luſt of that moſt Impudent Woman, and ſo a Period was put both to his Life, and to his Reign. *Joanna*'s third Marriage was with *James* of *Arragon*, who was reckon'd to be the Strongeſt and Handſomeſt young Man, that could be got for her, neither did he Live long with her; but not anſwering her Expectations, was order'd to be put to Death, or as ſome ſay, was by the Queen's order, Beheaded. She was Married a fourth time, to *Otho* of *Brunſwick*, of the Houſe of *Saxony*, but troubles coming on, we hear of no jarrs between them. This is that *Joanna* of *Naples*, ſo Infamous for her Crimes, who as if the wickedneſs of her Life, had not been enough,

'Tis otherwiſe in the laſt edition of Doleman.

The Character of Joanna *Queen of* Naples *whom* Doleman *extols.*

Similis ſimili gaudet.

Papa Reginæ.

How Avignon *came to belong to the Pope.*

* *Other Authors ſay, that that Schiſm laſted only* 51 *years and* 56 *days.*

Joanna's *third and fourth marriages.*

did before her Death, firſt, by adopting the King of *Arragon*, and afterwards the Duke of *Anjou*, fill'd *Italy* with Blood and Slaughter. At laſt being taken by *Charles de Durazzo*, the Son of him that had been the partner of her Adulteries, ſhe her ſelf ended her ill Life in the ſame place, and by the ſame kind of violent Death, by which ſhe had Murder'd her firſt Husband *Andreas*. And her own Siſter *Mary* being inferiour to none for Lewdneſs, but only to her Eldeſt Siſter, was likewiſe Beheaded, as having been found privy to the Murder of *Andreas*. And thus by the ſecret Judgment of God, the Off-ſpring of *Robert*, fell from the Inheritance of that Kingdom, which had been ſo wickedly Purchas'd by their Grand-Father: Neither did any Deſcended of them, ever afterwards Reign in that Kingdom. And *John de Serres* obſerves of thoſe diſpoſitions, which were made by the Pope of the Kingdom of *Naples* to the Duke of *Anjou*, and to the Kings of *Arragon* and *France*, that they were attended with nothing but meer Butcheries and Deſtruction of Mankind; and that the Grantees never receiv'd any thing of Advantage from them, while God who alone is the moſt juſt Judge, always ſhew'd his Abhorrence of and Curs'd that Sentence of the Pope.

The Example of Sancius *and* Alphonſus *diſcuſs'd.*

His third example is of *Sancius* and *Alphonſus de la Cerda*, but I know not, how this Example comes to be brought in, to overthrow the *Right of Repreſentation*. For this *Sancius*, being the ſecond Son of *Alphonſus* X. Sir-nam'd the *Aſtronomer*, was Generaliſſimo of all his Father's Forces, the firſt Born Son being Dead, and acquir'd to himſelf great Reputation in ſome Expeditions againſt the *Moors*, and truly, bating his Ambition, he was a man not unworthy the praiſes of a good General. He with the conſent of his own Brothers, who had great Intereſt both with their Father, and with the People, his Father aſſenting, was declar'd Succeſſor in the Kingdom, even while the Father was Alive. But as ſome will have it, he ſhut up his Father in Priſon, and Uſurpt the Adminiſtration of the Kingdom in prejudice to *Alphonſus de la Cerda* and his Brother whom he alſo kept ſtill in his own Power, until he had Eſtabliſh'd himſelf in the Kingdom, by his Bounty and fair Promiſes, and other arts that he us'd, whereby to Conciliate to himſelf the Favour of the People. The Kings of *France* and *Arragon* were at firſt favourers of *Alphonſus*. But *Sancius* foreſeeing the Evils that might ariſe from thoſe quarters, appeas'd them both, partly by Affinity, and partly by contracting Friendſhips and Alliances with them. And ſo *Alphonſus de la Cerda* being forſaken by his Friends, and unable to Grapple with *Sancius*, was forc'd to accept of whatever Conditions he could have, and conſented to renounce the Kingdom [a]. But a tranſaction does not give Right, and it is a general Rule in Law, that they who renounce their Claims or Pleas, are not allow'd to reſume them. And when one reſigns his Right he cannot recover it [b]. But yet this example as I ſaid, does no wiſe confirm *Doleman*'s propoſition, for the Grand-ſon there by the decree of the Father, was unjuſtly Excluded from the Succeſſion, by his Uncle; and whoever but a *Jeſuite* ſaid, that the doing an unjuſt thing gives a Right? Yet I obſerv'd before, in anſwering the firſt of *Doleman*'s Books, that not many years after, the Iſſue of the ſame *Alphonſus de la Cerda*, return'd to the Inheritance of the Kingdom of *Caſtile*, in *Henry* III. King of *Caſtile* Son of *John*. I wonder that this Popiſh *Jeſuite* ſhould bring that *Sancius* for an example, who was ſo publickly Condemn'd by the Pope and devoted to all the curſes and ex-

[a] Mariana c. 7. lib. 15. de rebus Hiſpaniæ.

[b] L. poſtquam lit. C. de pactis & infinitis alijs tam juris Civilis quam Canonici.

execrations of that Church, for robbing his Father, and then the Sons of his Eldeſt Brother of the Kingdom, which of Right belong'd to them. Thus much for the third example.

His fourth example is of *Robert* Earl of *Artois* or *Arras*, who tho' he was Grandſon by the firſt born, yet his Aunt *Maud* was preferr'd to him in the Succeſſion of the Earldom of *Artois*. But all the writers that ſpeak of this Sentence ſay, that it was unjuſt, as being given againſt all Law and Right, and extorted by *Philip* King of *France*, who being enraged againſt the people of *Flanders*, was reſolv'd at any rate to engage *Otho* Earl of *Burgundy* in his intereſts, that by his aſſiſtance he might the more effectually curb the inſolency of that people. Neither was that the only unjuſt Sentence of *Philip* of *Valois*. But that no man may doubt of the injuſtice of his Sentence in that affair, *Maud* was dead before that Sentence was given, as *Jacobus Meyerus* who wrote the Hiſtory of *Flanders* witneſſeth. Wherefore of neceſſity there was place for the right of Repreſentation, ſeeing no Sentence could be given for a dead woman, and it had never paſt, had there been no perſon to repreſent the deceas'd. But a quite contrary Sentence was given in the cauſe of *Lewis* of *Nevers*, as the ſame *Meyerus* tells us; his caſe was this, *Robert* Earl of *Flanders*, had by his Wife *Blanche* who was Daughter to the Earl of *Anjou*, two Sons, *Lewis* and *Robert*; *Lewis* dy'd before his Father leaving one Son call'd *Lewis*. So *Robert* the only ſurviving Son, deſir'd to be inveſted in the Earldom by *Charles* the *fair*, but was rejected, and *Lewis* his Nephew by the Eldeſt Brother was preferr'd to him. So it is evident, that one or t'other of the Sentences muſt neceſſarily be unjuſt a. *Robert*'s reſentments, who upon this diſappointment entred into a league with the enemy of his Soveraign, againſt him, tho' he was his Brother in Law, which was attended with the devaſtation of his Country, and the horrid ſlaughter of his people, hence it appears that *Robert* reckon'd it no ſmall injury that was done him. However it be, *Girard* witneſſes that the County of *Bellimont* was adjudg'd to the ſaid *Robert*, while *Philip* endeavour'd in vain to pleaſe both Parties; but that exchange did in no wiſe ſatisfy *Robert*, and hence he had his recourſe to the King of *England*, who promoted his cauſe for the ſame reaſons, for which *Philip* had before given Sentence for *Maud*; For whatever deciſion in Law any man gives againſt another, he himſelf ought to uſe it. So far *Girardus* b. And indeed there was very little difference between the cauſe of *Edward* King of *England*, and that of *Robert* Count of *Artois*, add to this, that *Robert* of *Artois* was found guilty of forgery, as having counterfeited falſe writings, which is witneſs'd both by *Meyerus* and *Girardus*. *Polydore* truly as to this Sentence ſays, that in that queſtion force was moſt prevalent, even as the judges afterwards, deciding that controverſy, follow'd the King's byaſs, otherwiſe than juſtice requir'd, in giving Sentence for *Maud*. But in this caſe *Doleman* performs more than he had promis'd, to wit, not only giving the preference to the Uncle before the Son of the firſt born, but to the Aunt alſo, which how it agrees to reaſon, let every man weigh with himſelf.

The example of Robert *Earl of* Artois.

a Meyerus in fin. lib. 11. & princip. lib. 12. Annalium Flandriæ.

b Lib. 14. Hiſtor. Franciæ.

The

The fifth Example concerning the Dutchy of Britany *confuted.*

The fifth example that's brought is the controverſy for the Succeſſion in the Dukedom of *Britany*, in *France* between *John* Earl of *Monford* and *Charles* of *Bloys*. But that affair was decided by the proper judge, to wit the Parliament of *Paris*, and the whole proceſs almoſt is ſtill extant in *Girard*. As to what this *Doleman* the forger of lyes has feign'd out of his own head, of a Sentence given in *England* for the Earl of *Monford*, wittingly and willingly he impoſes on the World: For there never was any Sentence given in *England* in favour of the Earl of *Monford*. How could any ſuch thing be, when both Parties were Subjects and Vaſſals to the King of *France*, and the Dutchy of the *Armoric Britany*, about which the controverſy was, was a Fief of *France*? What power or juriſdiction had the King of *England* in that matter, or over thoſe competitors? How could his Sentence be put in execution? Who did ever proſecute or ſue the Earl of *Bloys* by Law? Or did they paſs Sentence againſt him uncited and unheard? Neither did *Polydore* ever ſay, that any Sentence paſt againſt that Earl in *England*, as this *Jeſuite* has feign'd. For *Edward* III. not ſo much from the juſtice of the cauſe, as that from that Country he might have paſſage into *France*, ſecur'd it for himſelf by force and arms, when he cou'd not do it by Right or Law; For *Monford* being taken priſoner, his Lady being a Woman of a manly courage, garriſon'd all the ſtrong Towns in *Britany* and put them in a poſture of defence, but ſhe being unable to ſuſtain a War againſt *France*, call'd in *Edward* III to her aſſiſtance, he having got footing in *Britany* made great havock and deſtruction in *France*, untill the King of *France*, that he might cut off all ſuccours and recruits from the *Engliſh*, and might retrieve *Britany* to himſelf, was reconciled to *Monford* Earl of *Britany*, who conſented the more eaſily to it, becauſe he perceiv'd the Succeſs of the Arms of *England* in *France* came to decline towards the end of *Edward* III's Reign, and in the Reign of *Richard* II.

His ſixth example feign'd.

This good Man, *Doleman*, brings his ſixth Example from the Controverſy between *Baliol* and *Bruce*, but repreſents it with his uſual Candor, and after all, it comes not up to the Caſe in hand. For the diſpute was between the Deſcendants from the two Siſters; of which *Bruce* only as being the firſt Male, pretended to have the Preference in the Succeſſion; and in thoſe days the Prerogative of the firſt Male was not inconſiderable. For in the Caſe of *Philip*, when the diſpute was for the Kingdom of *Portugal*, it did not a little avail him, as *Doleman* himſelf allows, that he was the firſt Male. Nay it's very Evident from that Law-Suite, between the Earls of *Monford* and *Bloys*, that in the ſame degree, the Male was always to be preferr'd to the Female.

Girardus lib. 15. Hiſtor. Franciæ.

His ſeventh example is not to the purpoſe.

The ſeventh Example of King *Henry* I. of *England*, is not to the purpoſe; for the queſtion then was not, whether the ſecond Son ought to be preferr'd before the Son of the firſt Born. For the Eldeſt Son was at that time Alive, and ſome years afterwards being taken by *Henry*, died in Priſon. Wherefore I wou'd have People take notice of one thing, that is, not to believe this *Jeſuite* in any thing. For as *Henry* was beginning his Reign, the queſtion only was, whether an Inheritance ought to aſcend or deſcend. But as I ſaid, *Robert* was juſtly Diſinherited, for Wounding and Diſmounting his own Father in the Field, and the ſecond Son was appointed to be his Heir, which the Father might Lawfully do, as to his Conqueſts, their Father leaving ſtill his Ancient Inheritance of *Normandy*

to

to his Eldeſt Son. But after the Death of the ſecond Son, the third Son did Succeed him, becauſe an Inheritance deſcends, but does not aſcend.

His eighth Example is as little to the purpoſe in hand; for King *John* was never lawfully call'd to the Kingdom, but as a Tyrant poſſeſt himſelf of it by Craft and Cunning. For had he been the Lawful Heir, and as ſuch, been preferr'd in the Succeſſion before *Arthur*, by the Rules of the Common Law, and rais'd to the Throne by the Judgment of all the Peers of *England*, he had never Murder'd his two Nephews, nor ſtain'd himſelf with ſo Heinous a Crime. And what I pray had *Arthur* to pretend to, if the Preference in the Succeſſion, was of right and by the Laws of *England* due to his Uncle. But I may ſay of *Doleman*,

His eighth example is not to the purpoſe.

Quo teneam vultus nutantem Protea nodo:

——————— what ſufficient ſnare
Can I to hold ſuch Changelings faſt prepare.

This *Jeſuite*, who ſo often mentions this *John* as an Uſurper or Tyrant, repeats over and over again, his poſſeſſing himſelf of the Kingdom by craft and violence, and ſays that he was ſo often exauctorate, and that he lawfully loſt his right to the Kingdom of *England*, and that he rendred both himſelf and his Heirs unworthy of it, ſtands up here for *John*'s being rightful King, and that he was choſen *by all the Nobles and Barons of the Realm.* (good God!) and by publick ſentence, preferr'd to *Arthur*! And that according to the mind of *Eleonora* his Mother, who it's probable would in all things favour her Son, and *Hubert* Arch-Biſhop of *Canterbury*, a man of an ill Character, and *Geoffery Fitz Peter*, chief Judge of *England*. Were theſe three ſufficient to make a King? But what part *Hubert* acted, is plain from the Speech that he made, when they were conſulting about making a new King, as *Polydore* tells us. For he owns in that very Speech, that by the right of inheritance, the Kingdom belong'd to another rather than to *John*, and that the people were more forward to have *Arthur* for their King than him; nevertheleſs in his opinion, he thought that it wou'd be more for the publick good to chuſe *John*. But immediately after that *Hubert* was taken ill, and died, yet before his death, he had great remorſe, and was extreamly aſham'd, for having perſwaded the Nobles to chooſe *John* to be King; nothing of all the actions of his life, burdened his conſcience ſo much as this did, when he was upon his death bed. But his repentance was too late, when he could not undo, what he had ſo unjuſtly done. And ſo much for *Hubert* Arch-Biſhop of *Canterbury*. So it is moſt certain that *John* did not Succeed rightfully to the Kingdom. For *Richard* by his Laſt Will or Teſtament could not make him rightful Heir, and *Polydore* expreſly bears witneſs, that by the Teſtament of *Richard*, *Arthur* was appointed Heir. So that what *Doleman* alledges is a meer Forgery. And ſo much for the two Examples, which *Doleman* brings from *England*.

But was this affair to be determin'd by examples, tho' examples, as was proy'd before, can never create a Right, we could bring many more inſtances, where the Nephew was preferr'd before the Uncle, than *Doleman* can bring to the contrary. I have already brought two in *England*, one in *Arthur* Duke of *Britany*, and another in *Richard* II. The reaſon why I brought no more is, becauſe *England* affords no more examples in this Caſe, there not being one in all its Hiſtory, wherein the Uncle was preferr'd to the Nephew and to the firſt Born, either in the Succeſſion of the Crown, or of private Inheritances.

An Example from Portugal *for the Nephew.*

In *Portugal*, when *Alphonſus* V. had two Sons, *Henry* his firſt born and *Ferdinand*, *Henry* dying before his Father, leaving one Son called *John*, who after the Grand-Father's Death, was preferr'd to *Ferdinand*, the Nephew by the Eldeſt Son before the Uncle, in the Succeſſion to the Kingdom of *Portugal*; and Reign'd peaceably, no diſpute ever being rais'd againſt him by his Uncle. He was called *John* II. and he again dying without Children was Succeeded, by his Couſin *Emmanuel*. But not to leave *Portugal*, *Doleman* himſelf bears witneſs, that *Sebaſtian*, who above four and twenty years a go was killed, Succeeded to that Kingdom by the Sole right of Repreſentation. For *John* III. Succeeded *Emmanuel* and Reign'd by the name of *John* III. his Eldeſt Son was nam'd *John*, who dying before his Father left *Sebaſtian*, and this *Sebaſtian* was preferr'd to all his Uncles and great Uncles, for both *John* and *Emmanuel*, had more Sons, as ſhall be made appear afterwards. It was the Law of the Kingdom, in the other Kingdoms of *Spain*, that the Son of the firſt born Deceas'd, was to be preferr'd in the Succeſſion of his Grand-Father's Kingdom, to the Uncle. *Paulus de Caſtro* takes notice of this Law[a]. And in the ſecond Book of the Laws of that Kingdom the ſame Law is recorded.

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Two Inſtances from France, *for the preference of the Nephew to the Uncle in the Succeſſion.*

This right of Repreſentation was conſtantly obſerv'd in *France*, as I have already made appear in the Inſtances of *Lewis* of *Nevers*, and of the Earls of *Blois* and *Monford*. I ſhall add another example, which fell out in the year of our Lord, 1109. under *Lewis* ſirnam'd the *Burly*. *Archibald* Earl of *Bourbon* Succeeded in that Earldom after the Death of his Grand-Father, his Uncle who was alſo nam'd *Hamon*, taking advantage of the Nonage of his Nephew, put in his Claim for the whole Earldom as due to him, as being one degree before the Nephew, and nearer to the Deceas'd, the very ſame Pleas by which *Doleman* contends for the Succeſſion of the Kingdom's being due to the Duke of *Lancaſter*. But the Mother of *Archibald* oppos'd him as much, as ſhe could, and pleaded in favour of her Son, that Right of Repreſentation, which had been hitherto inviolably obſerv'd in great Families; by which the Son of the Eldeſt Brother Deceas'd repreſented his Father, and ought to Succeed to all the right and place, that his Father, had he been Alive, had Succeeded to; becauſe the Father is reckon'd to be *renew'd* in his Son. But *Hamon* truſting to Force and Arms, held Poſſeſſion of the Earldom, until the diſpute was brought before the King. The Parliament of *Paris* having given Sentence in favour of *Archibald* the Lawful Heir, *Hamon* was forc'd by the King to quit his violent poſſeſſion. This account I have taken from *John de Serres*, his Inventory of the Hiſtory of *France*, who was a very exact writer. In which this is remarkable, that this Right of Repreſentation was inviolably preſerv'd among the *French*, and eſpecially in great Families, and that this affair was decided by the Sentence of the proper Judges, and not by Force or Arms. *Gregorius Tholoſanus* gives another example in the

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Earldom of *Foix*, under the Reign of *Francis* I. A. D. 1517. between *Oder* of *Foix* and *Henry de Alberto*. For *Gaston* Earl of *Foix*, who was famous for the Battle that was fought at *Ravenna*, had two Sons born to him, by *Eleonora* of *Navarre*, Namely *Gaston* and *John*, *Gaston* the first born dying before his Father, leaving only one Daughter, *John* alledged that, his Brother being Dead, the right of Primogeniture belong'd to him, and that he ought to Succeed in the place of the first Born. But a decree was given in favour of *Gaston's* Daughter, tho' a Female. All the Lawyers are of the same opinion, who reason thus, whatever is alienable is transmissible. But the right of Primogeniture is Alienable, as appears from *Esau's* selling his Birth-right. Therefore, it can be transmitted to Heirs. But *Doleman* has the confidence, (for what will a Jesuite stick at?) to assert also that *Ranulphus de Glanvilla* is an Author of his opinion. But *Ranulphus* says no such thing, nay he preferrs the Nephew by the first born, in the Succession to the Grand-Father, to the second Son, unless the Eldest Son, had been out of his Father's Family, that is, had got his part of the Inheritance from his Father, in his own Life-time, with which he had own'd himself satisfy'd. In that case the Nephew by the first Born Son cou'd demand no more, than what his Father possest of the Paternal Inheritance a.

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But *Doleman* being sensible that there was nothing in the common Law of *England* to favour his position, and knowing that the right of Representation had been inviolably observ'd in that Kingdom, he has his recourse to a distinction, to wit, that the right of the Crown is not to be decided by the rules of the common Law, but is Superior to them, and differs from the Pleas of particular persons, unless it be expressly provided that that right of the Crown shall also oblige the Successors, and for confirmation of this distinction, between the right of the Crown, and that of private men, he brings the same reasons, which I made use of, when I discours'd of the differences between the Succession of the Crown and the Successions of private persons. But this most foolish, at least most unskilful Lawyer, do's not consider, that the Law of Succession in the inheritance of the Crown, is defin'd and establish'd by an express Statute, that it is and ought to be the same, with the common Law of Succession, or the Succession to private Estates, and as the custom of the Crown has always been. But if my adversary can produce either the custom of the Crown of *England*, not to say *England* it self, or the custom of any other hereditary Kingdom in *Europe*, by which the second Son is to be preferr'd in the Succession of a Kingdom, to the Son of the first born deceas'd let him show it and carry the cause, but he shall never find any such custom.

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Parliament, *Richard* was publickly declar'd King. There is as little truth in what he ſays, that the Duke of *Lancaſter* did not all his life after, pretend any right to the Crown, becauſe of the Oath he had made unto his Father: For the Duke of *Lancaſter* never took any ſuch Oath, but as Tutor to the young King, and under that character of Guardian to the King, and in his name only, he took the Oaths of Allegiance of the Subjects. But had he known that any right was devolv'd on himſelf by the death of his Father, he was not ſo Silly, as not to have oppos'd the Coronation of his Nephew, he would have pretended the Law of Nations, and the Laws of Succeſſion, when he alone could do what ever he pleas'd. For he himſelf had not only the Government of the Kingdom, but all the garriſon'd Towns and Caſtles were in his power, and alſo the Army and the Exchequer. What was there to withſtand him at that time? And he was greatly in favour both with the people, and with the Nobility. Would he never ſo much as have made any inſinuations of his right, if not publickly, yet at leaſt privately and by little and little, as *Richard* Duke of *York* afterwards did. Undoubtedly he had never loſt ſuch opportunities, but he would have ſignified to the people, who were extreamly devoted to him, that his right had been taken from him, by the circumvention of his Father.

Moreover when the Duke of *Glouceſter*, who was *Richard*'s other Uncle, charged the King with ſo many reproachful things, and did all that ever he could to blacken him, why did not he object againſt him, his being an unlawful Poſſeſſor or Uſurper of the Kingdom, or tacitly ſtir up the Duke of *Lancaſter* to recover his Right, ſo as *Richard* being depos'd he himſelf might reign, as he did ſollicit *Mortimer* to do the very ſame thing? But this ſhall be conſider'd in the following Chapter. *Glouceſter* had reap'd a double advantage by it, for he had thereby avoided the diſpleaſure of the King his Nephew, who for very juſt cauſes hated him; and he had at the ſame time promoted the Lawful Heir of the Kingdom, who had the greateſt friendſhip for him, and was alſo his own Brother. Neither is it to be doubted, but that *Glouceſter* who was a very popular man, could have by that artifice diverted eaſily from himſelf all the ſtorms and evils, which hung over his Head, and afterwards fell upon him. But both of them were affraid to break their Oath, that their Father, had made them Swear. But is it likely that an Oath, in a thing that's Unlawful in it ſelf, Sworn meerly becauſe they were affraid to offend their Father, (which in Law is compar'd to a juſt fear) ſhould oblige any perſon to the Obſervation of it, as *Doleman* himſelf will have it. At leaſt when *Henry* IV. had charg'd *Richard*, not only with ſuch things as ſhould not have been nam'd, but alſo with other Faults, and Murder'd him moſt baſely, why did not he Accuſe him, and condemn him for Treaſon, as having Uſurp'd the Kingdom, Excluding the true and Lawful Heir of it? Nay in that very Parliament, in which *Richard* was Dethron'd, in that Supplication, which *Henry* preſented to the Eſtates of the Kingdom, he ſaid that the Government of the Kingdom belong'd to him rightfully for three reaſons, namely, Firſt by the Right of War, having acquir'd it by his Arms. His ſecond was, from the Reſignation of *Richard*. And his third, as being next Heir to *Richard*. *Polydore* has theſe three reaſons: But that either the Father of *Henry* was unjuſtly debarr'd from the Kingdom, or that *Richard* was unlawfully preferr'd to him, or that he himſelf was the true Heir of *Edward* III. not one word. For he knew,

that

that had he pretended to the Right of Succeſſion of *Edward* III. or if his Father the Duke of *Lancaſter* had pretended to it, they would have been hiſs'd at, and rejected by all. Seeing the Right of Repreſentation had by conſtant Cuſtom, been ſo carefully obſerv'd by the *Engliſh*, that they reckon'd themſelves bound by all means ſtill to obſerve it inviolably. Neither were the Peers of *England* ſo ſtupid, as not to know who was the Lawful Succeſſor of *Edward* III. in the Kingdom. But we ſhall conſider by and by, whether this *Henry* was the Lawful Heir of *Richard*, when we come to examine *Doleman*'s third reaſon. And ſo the queſtion is diſcuſs'd as to the point of Right, and the Title of the Family of *Lancaſter* is not to be compar'd with the Title of the Family of *York*, which Succeeded to the place of *Edmond Mortimer*.

CHAP. XI.

Doleman's *ſecond Reaſon for the right of the Family of* Lancaſter, *from the juſt and orderly depoſition of King* Richard II; *Confuted.*

Doleman's *ſecond argument from the depoſition of* Richard ii.

Doleman's ſecond Argument for the Right of the Family of *Lancaſter* is this. Suppoſe *Lancaſter* was inferiour as to the Right of Succeſſion, yet in this he was preferable, that *Richard* was depriv'd of all Royal Dignity, by the conſent of all the Eſtates of the Realm, and *Henry* Choſen and admitted by the Parliament, as his next Heir. And *Doleman* proves this Depoſition to be Juſt, from theſe three things, to wit, the Lawfulneſs of Depoſing Kings, the Cauſes of *Richard*'s depoſition, and the Manner of it.

The firſt queſtion then is wholly upon the point of Right, whether or no a King may be Lawfully Depos'd! *Doleman* ſays that his Civil Lawyer has already prov'd ſo Evidently, the Affirmative of that Propoſition, by unanſwerable reaſons, and by the Authority of Philoſophers, Lawyers, Divines and Governours of Common-wealths, and examples, that nothing can be ſaid againſt them. As for his reaſons which were none at all, or very ſlight ones, I have anſwer'd them already. And I have not as yet ſeen any of his Authorities of Philoſophers, Lawyers, Divines and Governours of Commonwealths; they are not to be found in his firſt Book, I mean ſuch, by which it is lawful for the people to lay aſide and depoſe their King and Soveraign Lord, at their pleaſure, for whatever cauſes ſhall ſeem juſt to them. But *Doleman* ſays, that God has concurr'd and aſſiſted wonderfully in ſuch dethronings of Kings, and bleſs'd them with good Succeſs. How true that aſſertion of his is, has been already conſider'd in the XIX Chapter of my firſt Book, tho' it be too bold and raſh to found a right upon Succeſs, or one or two examples. This one thing I know, that from the

mouth of God, no man is ſaid to be innocent who ſtretches out his hand againſt the Lord's anointed. Neither did ever Servants juſtly and lawfully take Arms againſt their Maſter, nor Children againſt their Parents, nor Souldiers againſt their General, nor Vaſſals againſt their Lord, nor Subjects againſt their King with Succeſs, which was evidently done in that Tragedy of *Richard* II. For to uſe a Phraſe from Scripture, there is not one of all that moſt numerous Family of *Lancaſter* or *Plantagenets*, left *to piſs againſt the wall.* And ſo much for the queſtion of the right whether a King may juſtly be depos'd by his Subjects, which I diſcuſs'd in the above cited Chapter.

I come now to the Cauſes. The moſt juſt cauſes, as *Doleman* ſays, of *Richard*'s depoſition, and he alledges that all the Hiſtorians of that time, whether *Engliſh*, *French*, *Dutch* or *Latine*, do with one accord affirm, that *Richard* was a wretchedly ill man, and worthy of depoſition, and that they have given him ſuch a character as will make him odious to all poſterity. No Hiſtorian, that I know of, ſays, that *Richard* was a very ill man, whatever this trifler aſſerts, but only that by his youthfull liberties he gave occaſion for Calumnies. The Monks indeed inveighed bitterly againſt King *Richard*, becauſe he had too heavy a hand upon Eccleſiaſtical perſons, neither was *Henry* IV, who dethron'd him, more gentle to them. For it was common for all the Kings of *England*, even from the Conquerour himſelf, whenever they complain'd of the narrowneſs of their own Fortune, to envy the too great Riches of the Churchmen. So ſometimes they burden'd the Eccleſiaſticks with Loans, and Subſidies and Taxes were laid upon them, even to the time of *Henry* VIII, who finiſht, what his Predeceſſors had often purpos'd to do, by taking to himſelf all the Riches of the Church of *England*, all their Eſtates and Church Lands, leaving only the Tithes to the Eccleſiaſtical order. Moreover they who reported theſe things of *Richard*, liv'd and wrote all of them under the *Henry*'s IV. V. and VI. when men were affraid to ſpeak their thoughts freely, nor was any man ſuffer'd to write unleſs they wou'd reproach *Richard* and detract from him, or would not defame and revile him in their writings: And there are but too few writers who are not Time-ſervers, and court the favour of the King in poſſeſſion, as being the beſt means to preferment, when benefices fall vacant.

The cauſes, for which Richard *loſt the Kingdom.*

But let us enquire into the cauſes, for which *Richard* was forc'd to reſign the Kingdom, by Exſpatiating a little. When *Richard* Succeeded to the Kingdom, he had not then enter'd into the Eleventh year of his Age. The Dukes of *Lancaſter*, *York* and *Glouceſter* were all preſent at his Inauguration and gave their conſent to it, when at the ſame time, it had been a very eaſie thing for them to have wreſted the Kingdom out of his hands, and have given it to the Duke of *Lancaſter*, had they known that *Lancaſter* had a better Right to it. But all theſe Uncles of *Richard*, nay all the Eſtates of *England*, who cou'd not be miſtaken as to the point of Right, did unanimouſly agree to his Coronation. *Lancaſter* himſelf got the Guardianſhip of the young King, and the Government of the Realm in his own hand, in the name of his Pupil, according to the laſt Will and Teſtament of his Father, Swore Allegiance in that Character to his Pupil as to his Soveraign, and Adminiſtred all affairs in *England* as he thought fit, nay indeed without conſulting the King, alledging for that omiſſion his want of years; and mean while he kept him under a

moſt

most hard Guardianship and Government. For as *Polydore* says, when he began to mind himself and his own concerns more than the Publick welfare, the Education of the King was neglected. Had he taken care to have him well Instructed in Letters, had he made him acquainted with business, so as that of himself he might have known what were the duties both of the King and of the People, many Evils, which afterwards happen'd, might have been prevented, which were occasion'd by their too rough usage of him, while he was under Age. But *Richard* being at last at Liberty and deliver'd from the restraints he had been under, before the twenty second year of his Age, no wonder if in *Lancaster*'s absence, he would try if he could do any thing. But yet his great mildness towards *Lancaster* afterwards appear'd in the following particulars. For after a Carmelite Monk had accus'd *Lancaster* of a Plot against the Kings Life, at the request of *Lancaster* this Monk was examin'd by most exquisite Tortures, and tho' he still adher'd to the Confession that he had made, and at last Dy'd under the Rack, owning his Confession to be true; yet this did not Alienate the King's favour from *Lancaster*, but as formerly he entrusted him with the Government of all the Provinces beyond Sea, which belong'd to *England*, gave him the chief Command of his Forces both by Sea and Land, and provided him of Money, Men, Arms and with a Navy, to enable him to recover the Kingdom of *Castile*, and being unsuccessful in that attempt, the King upon his return gave him all *Aquitain*, tho' the Subjects of that Province refus'd always to acknowledge any other Lord, or to be Subject to any but to the Crown of *England*; he makes his Eldest Son *Henry*, by whom he himself was soon after Dethron'd, first Earl of *Derby*, and after that Duke of *Hertford*. He took care to have his other Children, that were begotten in Concubinage, to be Legitimated by Act of Parliament, that they might be capable to inherit and Succeed to their Father. So that it is false, that *Mortimer* was declar'd Heir of the Kingdom, out of hatred of *Lancaster*. For at that time there was a strict Friendship between the King and the Duke of *Lancaster*; and in that Parliament in which *Mortimer* was declar'd Heir apparent and Successor of the Kingdom, not only the Duke of *Lancaster*, but the Dukes of *York* and *Glouceſter* were present, and also were the Leading men: Nay that all men may know *Richard*'s temper, it was reported that he often said, that if he had the Free power of Nominating the Heir of the Kingdom, he wou'd name none but the Earl of *Aumarle* Son to the Duke of *York*, for his good natural Temper and his Virtue. And therefore it is in no wise probable that *Richard* did any thing to the prejudice of the Rightful Succession. Neither did he any injury to *Lancaster* in his Life-time, nor perhaps *Lancaster* to him. But the Duke of *Glouceſter*'s temper was quite different, as was his fate; for he was naturally a fierce and violent hot man, and above all behav'd himself most Haughtily and Disobligingly towards the King; he had a most petulant tongue, wherewith he rebuk'd and chastis'd the King; after another manner than became a Subject, to treat his Soveraign. In so much that the Earl of St. *Paul*, who was at that time Ambassadour in *England* from the King of *France*, was heard to say, that such petulancy was not to be endur'd in a Subject. So that the King who was otherwise of a temper mild enough, came to be displeas'd with *Glouceſter*, for that Liberty of speech, or rather frowardness, that he assumed. But tho' words may perhaps be endur'd, yet what he did afterwards was not to be so easily forgiven; for

The neglected education of a Prince the occasion of great evils.

The Duke of Glouceſter's *fierce and violent Temper.*

His Frowardneſs.

for he, in Confederacy, with the Earls of *Derby* and *Nottingham*, roſe in Rebellion twice againſt his own Soveraign, forc'd him to take ſanctuary in the Tower of *London*; And being call'd by *Glouceſter*, and the reſt of his Accomplices to come to them, when he had refus'd to come, as ſuſpecting himſelf to be in great danger with them, notwithſtanding his Innocency, and being ſafe in a Fortify'd place, they ſent him a Meſſage to this purpoſe; That if he ſhou'd perſiſt in his refuſal to come to them, then they wou'd chooſe another King, who wou'd follow their advice At laſt when he yielded to their deſire, they impos'd very harſh Laws and Rules of Government upon him. *Treſilian* who was a great favorite of the King, and Lord Chief Juſtice of *England*, they took and hang'd. *Nicholas Brenbery* was by their order Beheaded, with many more, upon pretence of their having abus'd the Kings Ear, and given him ill Counſel. And beſides others, one *Simon Buckly*, as being of the King's Cabinet Council, (tho' in truth, becauſe *Glouceſter* was reſolv'd to have his Eſtate, it being a very good one) was alſo Beheaded, without any Legal Trial or Form of Juſtice. Then home goes *Glouceſter*, not regarding either the Kings favour or diſpleaſure. Let the impartial Reader conſider, and weigh himſelf, in the preſence of God, whether ſuch things were to be endured, by a King from his Subject, or by a Superiour from his Vaſſal? His Brothers *Lancaſter* and *York* hearing of the unaccountable behaviour of *Glouceſter*, and the contumelies and affronts that he had put upon his Soveraign, made it their buſineſs to wait upon the King, and to Apologize for what had been done, and told the King that *Glouceſter* wiſh'd very well to him, but that he was of a Surly temper; and that his Tongue was petulant above meaſure. The King, whom *Doleman* moſt impudently makes ſo Cruel a Tyrant, being very ready to forgive faults, and of great Clemency, at the Interceſſion of his Uncles, pardon'd the Injuries which *Glouceſter* had done. Yet afterwards they went to *Glouceſter*, and rebuked him for his faults; and ſeriouſly Expoſtulated with him, upon account of the Indignities he had offer'd to the King. But when they cou'd not move him, to lay aſide his Brutal manners, (For as *Polydore* ſays, he was a moſt Fierce man, and of a hot and forward temper) and gueſſing that his frowardneſs wou'd be attended with ſome miſchief; they left him, and went to their reſpective Houſes. *Glouceſter* being nothing ſoftn'd with the Kings Lenity and Mercy, meets as *Froſſard* ſays[a], with *Mortimer*, who was Grand-ſon of *Leonel* by his Daughter, and promis'd him the Crown, on Condition that he wou'd enter with him into a Conſpiracy againſt the King; but finding that he cou'd not engage *Mortimer*, who heartily abhor'd the Crime, to become his Accomplice, he threatn'd openly, as *Polydore* ſays, to put the King in Priſon, as an Effeminate man, and no ways fit to Govern the Kingdom. But not reſting ſatisfy'd with threats, he enter'd into a new Conſpiracy with the Earls of *Arundel*, *Warwick* and Mareſchal, by the advice alſo of the Arch-Biſhop of *Canterbury*, the Abbot of St. *Alban*'s and the Prior of *Weſtminſter*, for ſeizing the Kings Perſon, with the Dukes of *Lancaſter* and *York* alſo as conniving at what things the King did amiſs. The whole Plot was diſcover'd by the Earl Mareſchal to the King, who preventing the Duke of *Glouceſter* (whom he knew cou'd gather an Army very ſoon from among the Diſtracted and Furious Mob) order'd him to be taken up, and ſent to *Calais*, to be kept there in ſafe Cuſtody. *Arundel* being accus'd, as being Privy to, and having excited *Glouceſter*, to all thoſe crimes, did not deny the fact, but pretended that *Glouceſter* attempted thoſe things for the

[a] Cap. 86. lib. 4.

Glouceſter's *treaſons againſt the King.*

the good of his *Country*, neither did *Arundel* lay aſide his uſual fierceneſs, even at his Tryal, and thus loſt his head. He gave out as the cauſe of his puniſhment, that he himſelf with the Duke of *Glouceſter* formerly taking arms againſt the King, had put to death either with the Sword, or the Gibbet ſome of the King's Favorites, for having abus'd the King: Among whom was *John Calverly* one of the Queen's Servants, for whoſe life, tho' the Queen interceded with *Arundel*, three hours upon her bended knees, yet cou'd not the ſteely mind of *Arundel* be mollify'd or appeas'd; And yet it was not for this brutality towards the Queen, that he was beheaded, but as being found guilty of that treaſonable conſpiracy with *Glouceſter*, in which they had reſolv'd to ſhut the King up in Priſon, and to put him from his Throne. And this Sentence was paſs'd upon him, the Duke of *Lancaſter* himſelf being Lord High Steward. In which 'tis manifeſt, that *Lancaſter* by that very Sentence, condemn'd alſo his Brother *Glouceſter*, which he cou'd never have done, had he not been convinc'd that *Glouceſter* was an ill man, and that for the publick welfare he ought to be taken out of the way; All the reſt that were concern'd with him in that wicked Plot, ſuch as the Earls of *Warwick* and *Mareſhal*, the Lord *Cobham* and *John Cheyne* confeſſing the crime, and deprecating the puniſhments which it deſerv'd, had their pardons given them, by the grace and goodneſs of a moſt gentle and merciful King. But whilſt *Glouceſter* ſtill breath'd forth nothing but Blood and Slaughter, and threaten'd to revenge all the wrong, as he call'd it, that was done to his friends, he was by the Kings command put to death privately, for it cou'd not be done otherwiſe without a Tumult, *Glouceſter* having always headed the mad Mobb; A man, ſays *Holinſhed* that was as much againſt the King in all things, as he cou'd poſſibly be. Yet I do not altogether excuſe King *Richard*, for many things in him are blame worthy, as his aſſuming to himſelf ſometimes an abſolute power, which the people cou'd never bear with, yet I affirm poſitively, that he did nothing for which he deſerv'd to be dethron'd, and afterwards baſely murther'd, as ſhall be clearly made appear afterwards. After the Duke of *Lancaſter*'s death all things grew worſe. The King being a young man, and free from that fear, or reverence that he had for his Uncle, began to uſe greater Liberties and to be more profuſe in his way of living. But the Duke of *Hertford* Eldeſt Son to *Lancaſter*, who formerly had join'd himſelf to *Glouceſter* in ſome of his Treaſonable Plots, and had taken Arms againſt the King, during his Fathers abſence in *Aquitain*, accuſes the Duke of *Norfolk* of Treaſon, as having ſaid ſome things which were Treaſonable in ſome private conference with himſelf. While *Norfolk* deny'd the crime, and the other cou'd not prove it, they challeng'd each other to a Duel. The Day and Judges were appointed, and then both of them came arm'd to the Field, *Hertford* having ſubſcrib'd his accuſation with an Oath, and *Norfolk* deny'd it; and thereupon being ready to engage one another, one goes to the King for *Hertford*, and as if he had repented of his firſt accuſation, charges *Norfolk* with a new crime, to wit, that he was an accomplice in the wicked and treacherous murther of the Duke of *Glouceſter*. The King asked of *Hertford* whether or not that was the thing that he had ſaid, and the words which the other as his fellow Souldier had ſpoken. *Hertford* anſwer'd unadviſedly, that theſe were his very words, which he was now ready to juſtify againſt *Norfolk* by Duel. The King being very angry with *Hertford*, for having plainly

A baſe Action of Arundel's.

The cauſe of Henry *Duke of* Hertford's *baniſhment, who afterwards firſt founded the Kingdom in the houſe of* Lancaſter.

reproach'd him to his Face with treachery, puts an end to the Duel; and yet being to reſent the private injury done to himſelf, he did it with the greateſt mildneſs, puniſhing *Hertford* only with ten years Baniſhment, and leſt he ſhould ſeem more gentle to *Norfolk*, than to his own Kinſman, he Condemn'd him to perpetual Baniſhment. This younger Duke of *Lancaſter* ſuffer'd this Puniſhment, for his Malepertneſs and Petulancy, who did not ſtick to object to his Soveraign, in his own preſence Treachery or the Treacherous Murder of *Gloucester*. But that moſt mild King permitted *Hertford* to paſs the four firſt years alloted for his Baniſhment before he went away. But what return did *Lancaſter* make the King for his great Clemency? Soon after his arrival in *France*, hearing that the King had gone to *Ireland* in Perſon, the more effectually to extinguiſh the Flames of Rebellion there, he laid hold of that occaſion, and being invited by Letters from the Seditious people of *London*, he returns to *England*, pretending only two cauſes for that Expedition, to wit, to be reſtor'd to his Father's and Mother's Eſtates, and that the Grievances of the Nation might be redreſs'd, and the abuſes in the Government, reform'd; And by that pretence chiefly he enticed many of the Eccleſiaſtical order, and of the Common people to joyn him; ſome alſo of the Nobility, who wiſh'd only for a Reformation in the Kingdom, took part with him, as the Earls of *Northumberland* and *Worceſter*, after he had given them aſſurance upon Oath, that he intended nothing but the Reformation of the State, and to be Reſtor'd to the Inheritances of his Father and of his Mother; For his Succeſſion to the Dutchy of *Lancaſter*, was by his Mother. Wherefore his demands ſeeming to be juſt, they favour'd him at firſt, and when he had violated his Oath, *Northumberland* charg'd him afterwards with the Crime of Perjury, and ſent him a Challenge to Fight him, the Cuſtom at that time being to decide ſuch Controverſies by Duel. And tho' *Doleman* aſſerts that the Duke of *York* was head of that Faction, and that he Conſpired with *Lancaſter* againſt the King, yet 'tis certain from *Hollinſhed*, that as ſoon as *Lancaſter* had embark'd with ſome Forces, which were yet more than was reported, that the Duke of *York* admoniſh'd the Counſellours, with whom the King before his departure had entruſted the Adminiſtration of the Government, to be upon their Guard, and to provide for the Safety of the Kingdom, and prevent any miſchiefs to the State; for *Hartford* was to make a deſcent, being accompany'd with a great number of Forces, and he knew not how he ſtood affected to the King. And when *Lancaſter* had Landed with his men in *Yorkſhire*, the Duke of *York* rais'd an Army againſt him to prevent the occaſion of Innovations or diſturbing the State. But *Lancaſter* being mightily in favour with the people, and all of them crying out for a Reformation, the Duke of *York*'s Army ſoon deſerted him, who went ſtraight to the King, who upon the report of the Tumult and Rebellion in *England*, had return'd from *Ireland*. Mean while *Lancaſter*'s Forces did increaſe, and ſuch as refus'd to adhere to him, were given as a Prey to the Souldiers, the ſubſtance of the Country people was ſeiz'd, and their Cattle driven hither and thither as the Rebels pleas'd; ſo that by the Rapines which were committed by *Lancaſter*'s Army the people were Pillag'd, and their effects more Exhauſted, than was pretended, that *Richard* had extorted from the people, during his whole Reign. Which juſtifies that wiſe ſaying of a certain man in our own Age, that he wou'd rather be under a Hundred years Tyranny, than under the Civil War or Rebellion of one.

Lancaſter *violates his oath.*

But

But I come to *Richard*, who being fraudulently enticed to surrender himself to the Duke of *Lancaster*, and receiv'd by him with the appearance of Dutyful respect, *Lancaster* having given his Faith and Honour to him, that he was to ask nothing but the Lands and Lordships of his Predecessours, all which the most merciful King granted him; yet being made Prisoner contrary to the Oath that *Lancaster* had given, and brought back to *London*, and at last being sent to the Tower, he was forced to resign the Kingdom to save his Life; and *Henry* was Crown'd, who having given in his Petition or Claim to the Parliament, affirm'd that the Kingdom belong'd to him not by right of Succession, as Grandson of *Edward* III. nor by the Resignation of *Richard*, he did not pretend to either; but, as he said, as being Descended in a streight Line from *Henry* III. and that by the Blessing of God, and the Assistance of his Friends and Relations, he had Lawfully got the Kingdom, which for the want of an Administrator and Justice was on the Brink of Ruin. This was the Form of his Petition, which he presented to the Estates of the Realm, and is to be seen in *Hollinshed*. So neither by Succession (for between *Henry* III. and him four Kings Successively interven'd) nor by *Richard's* Cession, or Deposition, (of which he takes no Notice in his Petition,) but as by Conquest, and the Blessing of God, (which even the Wickedest men use to pretend to) and the Arms of his Friends who join'd with him, he said he obtain'd the Kingdom. So that he only pretended to have his right from meer Conquest, or the Election of the people.

Lancaster's second Perjury.

Henry of Lancaster declar'd King, Richard being dethron'd and the right by which Henry arrogated the Kingdom to himself.

But 'tis worth the while to take notice of the temper of this mad common people, and then what we related before, of the madness of the people of *Campania* and *Athens*, will be less wondred at. For whilst these hugg'd themselves that the King was by their assistance dethron'd, and from the consciousness of their own guilt were affraid, that in case he was restor'd, he would inflict such punishments upon them as they deserv'd, they petition'd the Parliament that King *Richard* himself might also be proceeded against in order to be punish'd. But the Bishop of *Carlile*, who was a man of great Learning, Loyalty and Boldness, with great Vehemence oppos'd that Petition, in the Parliament, whose words as related by *Holinshed* are these. 'That there was none there who 'was worthy to pronounce Sentence against so Noble a Prince, whom 'they themselves had acknowledged for their own Liege Lord, or So- 'veraign, for the space of two and twenty years. Nay, says he, never 'was the most wicked Traitor, Robber, Privy Murderer, Man Slayer 'taken or discover'd in the Crime, who was not allow'd to defend 'his own Cause, at a lawfull judicial Tryal. And you who are a 'most wretchedly impious Rabble, would destroy the anointed of the 'Lord without any fair Tryal, and unheard: For my part, I affirm 'that *Lancaster* whom ye have now made King, is certainly guilty 'of more, and much more heinous offences against the King, and the 'Kingdom, than what the King has done either against you or *Lanca-* 'ster. For he being banish'd the Kingdom, return'd nevertheless into it 'without asking the Kings leave, and having thrust out his Soveraign 'Lord, usurp'd the Title and Rights of the Kingdom. These things were said by him in publick Parliament, all the Estates of the Kingdom being present.

A memorable example of the madness of the common people.

The Notable Speech of the Bishop of Carlile.

But

The Crimes wherewith King Richard was charg'd.

But *Doleman* ſays, the Crimes which were charg'd upon *Richard*, were moſt heinous, and that he was moſt juſtly Depos'd for them, and he cites *Froſard* and *Walſingham* as his Authors. But *Froſard* ſays, that he was a moſt humane and mild Prince, and that he had granted to the Duke of *Glouceſter* whatever things he had deſired of him. In ſhort this is the ſumm of the Crimes which were laid to his Charge, firſt the making away without Law or Proceſs *Thomas* Duke of *Glouceſter*, and the Earl of *Arundel*, tho' it cannot be ſaid but that the laſt had a fair Tryal. As for *Glouceſter* I dare neither approve nor Condemn the method that was taken with him, but ſhall leave it intirely to the Judgment of the candid Reader, on this only Condition, that he read *Hollinſhed* in the Life of *Richard*, and *Froſard*, who was the moſt Accurate obſerver of all thoſe times, and an Eye-witneſs of all that paſs'd. For as he has left it in writing, *Glouceſter* endeavour'd by many Cunning and Crafty Devices and Machinations, to deſpoil the King, both of the Kingdom, and of his Life. *Arundel* had a Lawful Tryal, and was Condemn'd for the Crime of high Treaſon, againſt the Perſon of the King, by his own Confeſſion, and the Confeſſion of his Accomplices or Fellow-Conſpirators, the Eldeſt Duke of *Lancaſter* being preſent. What things elſe were objected againſt *Richard* does not deſerve to be reckon'd Crimes: Particularly that which was alledg'd of his having Exhauſted the Wealth and Riches of the Kingdom, the contrary of it being Evident. For in the Caſtle of *Holt* which *Lancaſter* took when he purſu'd after *Richard*, were found above three Hundred Thouſand Marks Sterling, which the King had there in ſtore. And after King *Richard* found that he was laid aſide, he gave *Lancaſter* a hundred Thouſand Pounds Sterling to ſpare his Life.

But he uſed to take Loans of money, ſaid his Accuſers, and then not pay the Creditors; But from whom I pray, had he thoſe Loans? Was it not from the *Abbots* and Prelates? That was common to him with the reſt of the Kings of *England*, when the taxes that were laid on were not ſufficient for the preſent exigencies, to demand money by way of Loan from the Eccleſiaſtical Prelates; and King *Richard* was able enough to have paid all his Debts, had not *Lancaſter* ſeiz'd his Money, and cut off all hopes of payment. I want to know of *Doleman*, which of thoſe creditors did *Lancaſter* ſatisfy, after *Richard* was depos'd? *Richard* alſo cou'd have deny'd the debt, or pleaded that the day of payment was not as yet come, or even pay'd the Summs, but all exceptions were taken away from him, by a moſt wicked and Tyrannical Sentence.

But the King ſummoned together his *Cheſhire* and *Lancaſhire* men, to make War againſt the Peers; As if it were unlawful for a King, to call his Subjects to himſelf, when he thought fit; As for his intention or deſign, who can be Judge but he alone that knows and ſearches the heart? The ſame anſwer may ſerve, for his alledg'd Diſſimulation, whether it was ſo or not, his withdrawing the Rolls and Records, his having procured the Pope's Bulls, when as the Kingdom of *England* was not Subject to any foreign Power, though in truth at that time the Kingdom of *England* was a Fief of the See of *Rome*. I am aſham'd to recount the things, that they ſay he had done againſt the Duke of *Lancaſter* and the Arch-Biſhop of *Canterbury*, ſeeing he did nothing againſt either of them, but what was juſt, and each of them ſate both as Accuſer and Judge. But ſuch trifles are not worth the while, to be longer inſiſted on. Let the twenty nine Articles, which are in *Holinſhed's*

Holinſhed's Hiſtory, and were objected againſt King *Richard*, be read, we ſhall find nothing in them, but meer ſtuff and trifles, no crimes circumſtantiated with times, and perſons, nothing like a crime, only ſome idle intentions and affections of the mind laid againſt him as crimes: Notwithſtanding that among private perſons, ſuch affections, when they are without effect, are not puniſh'd.

Whether it be Lawful to take arms againſt a Tyrant uncited, and unheard.

I know, it has been diſputed by ſome learn'd men, whether or not a Tyrant is to be judicially try'd, or at leaſt to be cited, before Lawfull Arms be taken againſt him. In caſe a Tyrant has an Army, if he keeps all the Caſtles and other ſtrong holds with. Garriſons, ſo that he can do miſchief, many and even the wiſeſt of them, and among the reſt *Solon*, aſſert that arms may be lawfully taken againſt him, tho' he be neither cited nor condemn'd. But if he be ready and willing to undergo a Tryal, and will ſuffer himſelf to be judg'd according to the Laws of the Country, they act both againſt the Laws of God and Nature, who take upon them to puniſh him without citation, and uncondemned. But this *Richard* was kept in a publick Jail, deſtitute of Arms, Men, and all Guards and Garriſons, and who, had he been allow'd a fair and juſt Tryal, could have made a good defence for himſelf, and overthrown all the calumnies of his Adverſaries, or retorted them upon themſelves. The ſame thing may be ſaid of the depoſition of *Edward* II, who was cruſh'd meerly by the envy of the Peers, becauſe his expedition againſt the *Scots* was ſo very unſucceſsful, being guilty of no crime that is to be found upon record, or of any oppreſſion of the Subjects, *Sed quum fortuna, eundem, & ſtudia hominum ſolent deſerere. But when Fortune plays the Jade to one, then men commonly abandon him.* What if he had been ſuffer'd to purge himſelf? What if he had been cited? Is it ſo that the benefit of breathing in the common air, or the benefit of a fair hearing and Tryal, is not to be allow'd to the Lord's anointed, ſo as he may not be ſentenc'd but after Lawful Summons and hearing? Was the affair to be entruſted to the accuſers themſelves, and who were to raiſe themſelves by the King's crime.

Clementina Paſtoralis, de ſententia & re judic.

But in the Pontifical Law *Clement* V. declares the Sentence of the Emperour *Henry* VII. againſt *Robert* King of *Sicily*, to be void and null, and repeals it, and witneſſes it to be repealed for many defects in the form of citation and judgment, and it may be worth the while to read them in that *Clementina Paſtoralis*, to ſee if they agree not in every thing almoſt, with the Sentence of depoſition, which was given againſt *Richard*. The firſt defect in the Emperour's proceeding againſt the *Sicilian* was, *Robert* King of *Sicily*'s being cited to appear in a place, in which he could not promiſe himſelf ſafety, to wit, in the City of *Piſa*, which at that time was at enmity with him. The ſecond defect was, that all things in that affair had been done haſtily and raſhly. And the third that the Sentence of Treaſon had been given againſt one who was abſent, and when there were none to plead for him. The fourth, that when that Judgment was given, the Emperour *Henry* had a great Army upon the place, who durſt have undergone, ſaid the Pope, the Judgment of ſuch a conſiſtory, and wou'd of choice, have offer'd himſelf up to a violent death? The fifth that *Robert* of *Sicily* had been cited out of the Emperour's Territories, to wit in the Kingdom of *Sicily*, which is not a Fief or Juriſdiction of the Emperour, but of the Pope. So the Pope concludes by way of interrogation, Did it deſerve then to

be called a Sentence, that was given by a Judge, to whom the King could not ſafely go or appear before him, and in a place that was notoriouſly unſafe, againſt one that was abſent, and not lawfully cited, and by conſequence unheard and undefended, and given in a hurry? Seeing he had no power otherwiſe over the King, eſpecially he not being cited, nor defended, defence being a right of the natural Law, and whatever is of the Law of Nature cannot be taken away by the Emperour. Compare theſe two Sentences together, and one egg will not be found more like to another, nor milk to milk, to uſe a common *Simile*, only with this difference that the whole procedure againſt *Richard*, was by many degrees more ſhameful and deteſtable. For in his caſe it was not the Emperour, who being Lord of *Italy* gave Sentence againſt a King, who in many things, was his Vaſſal, but here a Subject gives Sentence againſt his King, a Vaſſal againſt his Lord a Couſin German againſt his Couſin, a Servant againſt the anointed of the Lord. I wonder how *Doleman*, who calls himſelf a profeſſor of the Canon or Pontifical Law, and took notice of the defects in the ſaid *Clementina Paſtoralis*, could ever approve of that depoſition of *Richard*? But that Family of the *Jeſuites* make a ſcruple to ſpeak truth. And ſo that moſt innocent Prince was forced to renounce the Kingdom, and ſoon after was ſo barbarouſly murther'd in the Caſtile of *Pomfrect*, as wou'd affect the very Rocks and Adamants. For *Peter Exton* a Partiſan of *Lancaſter*'s having entred the Room, where *Richard* ſat at Dinner, with Eight Arm'd men, enclos'd the anointed of the Lord with a Net. *Richard* finding that they were reſolv'd to murder him, and being deſirous to die bravely at laſt, forces a Club or Halbard out of the hands of one of them, and with it kill'd four of the Aſſaſſines; nor yet had they compaſs'd his murder at that time, had not that execrable Villain *Peter Exton* moſt Traitorouſly behind his back cloven his head and brains aſunder with an axe. Thus ended the life of that moſt Noble Prince not without the moſt conſummate cruelty and perfidiouſneſs of *Henry* IV. Nay all circumſtances and aggravations conſider'd the crime and wickedneſs was more heinous than any thing that had been done or heard of before. This *Richard*, as *Holinſhed* ſays of him, was not of an ill, but only of an eaſy Nature. But what was the event of this Tragedy? The King of *France* and all his Peers and Nobility condemn'd a crime ſo horrid and monſtrous (for they conſider'd that ſuch an example might ſpread its influence and miſchievous conſequences farther, than the fact) puting a laſting mark of infamy upon the *Engliſh*. Almoſt all the Provinces beyond the Seas which belong'd to *England*, and *Aquitain* eſpecially revolted. *England* was miſerably ſhaken with civil Wars. Many Noblemen, whom *Doleman* alſo mentions, were put to violent and ignominious deaths. And the people were exhauſted with much heavier Taxes than they had been under *Richard* himſelf. And laſtly *Henry* was miſerably tortured during the whole courſe of his Uſurpation, under the ſenſe of his guilt, by an accuſing conſcience, which was a more intolerable burden than if he had carry'd *Ætna*, as he himſelf own'd when he came to die. 'Tis true what the Poet ſays of a guilty Conſcience.

The Lamentable death of King Richard ii.

—— *Cur*

——————*Cur tamen hos tu*
Evaſiſſe putes? quos diri conſcia facti
Mens habet attonitos, & ſurdo verbere cædit
Occultum quatiente animo tortore flagellum,
Pœna autem vehemens & multo ſævior illis
Quas aut Cæditius gravis invenit, aut Rhadamanthus
Nocte dieque ſuum geſtare in pectore teſtem.

Why ſhould you think the wretches 'ſcape ſo well
Who in their Boſoms feel a conſtant hell,
Whoſe minds with inward ſtrokes and ſtings attacque'd
Are with unutterable tortures rack'd;
He far ſeverer ſufferings undergoes
Who theſe inceſſant Gripes of Conſcience knows,
Than he who falls into Cæditius *hand,*
Or's rack'd at rigid Rhadamanth's *Command.*

Of all his moſt numerous Family *There was not one left to piſs againſt the Wall*, to make uſe of a Scripture phraſe; This gave beginning and riſe to thoſe Lamentable and deadly Factions between the Families of *York* and *Lancaſter*; which was not expiated but with the ſlaughter and blood of a hundred thouſand *Engliſhmen*. In a ſhort while he left the Kingdom, which he had with much ado kept, to his Son; which Son, tho' he was otherwiſe a very great Prince, had but a very ſhort Reign; and having exhauſted *England* not only of Riches but of men, he left his Son heir of it, who indeed was not an ill man, but yet very unfit for Government. And ſo the Family of *Lancaſter* was forc'd to quit the Kingdom, which *Henry* the Grand-Father had by the worſt arts acquir'd, and they with great difficulty maintain'd their poſſeſſion of; and that by the ſame means by which the Grandfather at firſt got it, to wit by Force and War. Wherefore neither *Doleman*, nor yet his Authors are to be believ'd, who affirm that *Richard* was ſo very ill a man, and that he was juſtly dethron'd. Let *Holinſhed*, *Froſard* and *Walſingham*'s accounts of *Richard* be read, and if all that I have ſaid be not found in them, almoſt in the very ſame words, and much more; If they do not give him the character of a Prince of a moſt mild and ſweet temper, and famous for his munificence, then I will be content to bear the blame. Indeed when he was deliver'd from a moſt hard and uneaſy Guardianſhip, which was not before the Twenty Second year of his Age, he was a little fierce and forward, which might be imputed more to his years and bad uſage, than to his natural temper; But an exaſperated mind, eſpecially a King's, is rather to be mollify'd with Complaiſance and dutiful Obedience, than with ſtubborn obſtinacy. I do not find that he committed any thing, for which he deſerv'd to be depos'd and loſe his Kingdom. And ſuppoſe he had done ill things, no man of a ſound Judgment will ſay, that any man can ſtretch forth his hand againſt the Lord's anointed, and be guiltleſs: And thus much in anſwer to *Doleman*'s ſecond Objection, that he brings from *Richard*'s depoſition.

The

The manner of depoſing King Richard *examin'd.*

The third thing that we are to conſider in King *Richard*'s depoſition is the manner and form of it, which *Doleman* highly commends, affirming *that nothing cou'd be done more Solemnly or in better or more convenienc order.* For theſe reaſons: 1. Becauſe *Henry* was called home by expreſs Letters of the more and better part of the Realm. *Doleman* is cautious in keeping in generals, and not giving us the names of the Noblemen, as knowing well that he was recalled from *France* only by a faction of the *Londoners*, and the Arch-Biſhop of *Canterbury*; alone Neither did the tenth part of the Nobility conſent to him, nor was any thing done in that matter by any common advice; For had it been ſo, how could ſo many of the Nobility have conſpired againſt him juſt in the very beginning of his Reign? He adds that it was done without ſlaughter, as if there cou'd be no crime beſides ſlaughter. But neither is that aſſertion of his true: For they caus'd all the King's Friends at leaſt as many of them as they cou'd ſeize to be hang'd; The Farmers and Country people were deſpoil'd of their Goods, the Royal Forts violently aſſaulted and taken, and the King's Treaſury and his Goods robb'd. Then *Lancaſter* enticed the King to entruſt himſelf to him, after he had ſworn deeply that the King ſhould be in ſafety and honour; and immediately after that he perjures himſelf, by making the King Priſoner in the Tower of *London*, and afterwards forces him to confeſs whatever things they had reſolv'd he ſhould, to blacken him; And at laſt to compleat the villainous and more than tragical Scene, they with the moſt conſummate barbarity murder'd their own Lord and Soveraign. So that ſhould all the reſt of *Lancaſter*'s crimes be forgiven him, yet he muſt be forever infamous among all poſterity, for that one moſt horrid crime, in ſo cruelly murthering his own Maſter. Can ſuch things conſiſt with a Lawful and orderly Judicial procedure? Eſpecially when all that time *Henry* had an Army of the brainleſs mad Mobb about him, that was ſet on miſchief. Pope *Clement* repealed the Sentence of the Emperour *Henry* againſt *Robert* of *Sicily*, becauſe when he gave that Judgment he was ſupported by an Army.

Doleman. 2. p. page 53.

But to excuſe that *Doleman* tells us, *That an evil King cannot be remov'd but by force of Arms, and that force is the ordinary way of remedy left by God*, as he impiouſly ſays, *to the Commonwealth, by which an evil Prince may be driven or pluckt away or brought into order.* And he adds that God is not always bound to work Miracles, or to uſe extraordinary means in bringing thoſe things to paſs by ſickneſs, or other ſuch means. Here this Jeſuite ſcoffs at the Providence of God, as if God never puniſh'd the ſins and wickedneſs of men, but by Miracles. We have examples in the ſacred Hiſtory, by which it evidently appears that God puniſh'd wicked Princes. For *Jehoram* the Son of *Jehoſhaphat* who killed his own Brethren, who were better than himſelf, introduced Idolatry, And followed the example of the Houſe of *Achab*, tho' there were two rebellions of his own Subjects againſt him, one of the *Edomites*, and the other of *Libna* in order to dethrone him, yet *Jehoram* was ſucceſsful in ſmiting the *Edomites*, and baffled the deſigns and attempts againſt him; and yet by the juſt judgment of God his Bowels fell out by a ſore diſeaſe which God ſent upon him. *Anaſtaſius* an *Eutychian* Heretick, was made Emperour, the people being unwilling, and crying out againſt him, as being an Heretick; yet he reign'd one and thirty years, all Plots and Seditions againſt him, proving unſucceſsful, and he having overcome the

Rebels

Rebels, was himſelf at laſt killed by the Hand and Dart of God, to wit by Thunder and Lightning. Truly I have ſeen two extraordinary puniſhments befall two Kings contrary to the expectation of all men, one in *Henry* II. King of *France*, who was a moſt powerful Prince, and at that time had ſix Sons; yet being a cruel Perſecutor of thoſe of the reform'd Religion, he himſelf in a Tournament was wounded in the Eye with a Splinter of a Lance, when he was Solemnizing the Marriage of his Eldeſt Daughter with the King of *Spain*, and dy'd of that wound in a few days after; Neither was there any of his Sons nor any Poſterity by them remaining in leſs than thirty years after that, to piſs againſt the Wall; And the Kingdom was transferred from his own to another Family. Who does not ſee the hand of God in this? Another Inſtance is in that expedition and naval preparation of *Philip* II. King of *Spain*, which put all men in a great conſternation and ſuſpence with relation to the event, when in the year of God 1588. he ſent that moſt famous and formidable Armado, which was the ſtrongeſt and beſt appointed Navy that had ever been ſeen on the Seas, and was thought to be invincible by any humane force, to dethrone the moſt Auguſt Queen of *England*; And tho' ſhe had prepared a good Fleet to oppoſe them, yet was that dreadful Armado, which ſeem'd terrible to the Sea it ſelf, diſpers'd and deſtroy'd without ever coming to an engagement. May not ſuch things be reckon'd ſomewhat miraculous? God does alſo to this day bring down the Pride and Tyranny of wicked Princes, by ſuch kind of puniſhments and inflictions, and we may hope that he will puniſh Tyrants for the future with ſuch like ſevere Judgments, unleſs we take upon us to prevent his Judgment, (which is executed only at his appointed time) and encroach upon his prerogative, *for vengeance belongs to him*; and no man cou'd take it patiently to be ſo dealt by. But *Doleman* ſays, that it's *God that ſtirs up the people to do ſuch things, and that it is by his own ordinance, and by his inſtinct and motion and Allowance on the minds of the people, that they riſe up againſt wicked Princes, thruſt them down from their Thrones, and trample upon them. So* Ehud *was ſtirred up by God to kill* Eglon *King of* Moab, Jeroboam *to revolt from* Rehoboam, Jehu *to kill* Joram *and* Jezebel, *aud* Jehoiada *to deſtroy* Athalia. From theſe examples (I paſs by the example of *David* ſeeing it's diametrically oppoſite to *Doleman*) he inferrs, the Lawfulneſs of Subjects taking Arms againſt their King, and not only that, but this moſt impure Blaſphemous wretch dares aſcribe to the Divine Majeſty, ſuch Seditious commotions in the minds of Rebells, as if they were ſtirr'd up and inſpired by God. What elſe is to be hop'd for from this *Jeſuite*, but to ſcatter the torches of Sedition and Rebellion every where among the people, thereby to gain the more Souls to his own Maſter. Truly had King *Philip*, tho' a deadly enemy to the Queen of *England*, known the ſecret Plot of this Book, he had taken care to have given the Author his deſerv'd reward, for affording ſuch defences and arguments to the Dutch Subjects, and alſo to the *Aragonians* who were lately very Seditious and in Rebellion; And who has prepar'd matter of Rebellion and moſt Specious Pretences for new Tumults, for the future; ſeeing by his Caſuiſtry, ſuch diſorderly Paſſions by which Subjects are ſtirred up to diſloyalty towards a wicked King, uſe not to fall out, but by the inſtinct of the ever bleſſed God inſpiring them. This is *Doldman*'s Doctrine.

CHAP. XII.

Henry *of* Lancaſter *was not the neareſt Heir of the Crown after* Richard II *was depoſed, neither ought he to have ſucceeded to* Richard; *and the reſt of the reaſons brought by* Doleman *for the right of the Family of* Lancaſter *are Confuted.*

Doleman's *third objection for the Houſe of* Lancaſter *againſt* York.

THE third Queſtion in *Doleman*'s fourth Chapter, Part II. or more truly his third Objection againſt the Houſe of *York* and in favour of *Lancaſter*, is this: *Richard*, whether Lawfully or Unlawfully, beingdepos'd from the Kingdom, or dying about that time, *Lancaſter* did Lawfully ſucceed to him as being neareſt in Blood; For at that time the Family of *York* had no pretence at all, to the Succeſſion of the Crown. But *Mortimer* the Son of *Philippa*, whoſe Siſter *Anne Mortimer* was afterwards married to *Richard* Earl of *Cambridge*, and Son to the Duke of *York*, had the right to the Succeſſion, and ſo *Mortimer*, whether *Roger* or *Edmond*, being dead, and leaving no Children, the right of inheritance was devolv'd from the *Mortimers* to the Family of *York*, although *York* had no right to the Succeſſion at the time when *Richard* was forc'd to reſign the Kingdom. *Doleman* truly ſpeaks truth here, (for the *Cretians* themſelves do not always lye) *Philippa* and her Son *Roger*, or her Grandſon *Edmond* was the true and lawful Heir of the Kingdom, and next in blood to *Richard*, who dying without Children, the Succeſſion devolved to his Siſter *Anne*, who was Wife to the Earl of *Cambridge*; And ſo that right of Succeſſion which formerly belong'd to the *Mortimers* paſſed on to the Family of *York*. Otherwiſe *York*, being only the Fourth Son of *Edward* III, was by birth-right only after *Lancaſter*, neither had he ever made a claim about the Succeſſion either of his Father, or of his Nephew by his Brother *Edward*.

Lancaſter *was not the neareſt Heir of* Richard ii.

But ſeeing the queſtion here, is concerning the Succeſſion of King *Richard* II. I deſire to know by what right, he dying without Children, the Succeſſion cou'd come to the Poſterity of the third Son, and the Children and Off-ſpring of *Lionel* the Second Son be paſs'd by? Or how the conveyance to *Henry* who was only the Son of the third Brother cou'd paſs, except by *Lionel* who was in the middle between the Parents of both *Richard* and *Henry*? But ſays *Doleman Henry* as Couſin *German* was two degrees nearer to *Richard* than *Edmond*, who was only in the third degree, to wit the Grandſon of *Lionel*; But the Lady *Philippa* Daughter of *Lionel* who was ſtill alive, was one degree nearer: Neither do I read what time ſhe dy'd, whatever *Doleman* babbles; why was not the Kingdom given to her? And if ſhe was dead and her Son one degree remov'd, yet the right of repreſentation ſupply'd that degree: For the Son is always reckon'd to be in the ſame degree with his Father or Mother, to whom he ſucceeds. But if being a degree nearer had given a preferable Title to the Kingdom, by what right could *Henry* the Couſin have aſpir'd

aspir'd to it? why was not *Edmund* Duke of *York* who was Uncle to *Richard*, as being one degree nearer to *Richard* than *Henry* was, preferr'd to his Nephew's Kingdom? *Richard* and *Henry* were Cousin-germans, by their Fathers being two Brothers; And *Edmond* Duke of *York* was the only surviving Uncle, and consequently one degree nearer than *Henry*. But this Author must be a Stock and a Trunk, or any thing else that's more stupid, who ruines the cause of the *Lancastrians* by the very arguments, which he brings to sustain it. For if the right of Representation took place in *England* at that time, as most certainly it always did; then the Children of *Lionel* were to be preferr'd to *Lancaster* as being a degree nearer. But if no regard was due to the Right of Representation, *York* was one degree nearer, as being the Uncle of *Richard*, while *Lancaster* and *Richard* were only Cousins. Therefore *Doleman* can never extricate himself let him do his utmost to get rid of these entanglements.

But the right of the Family of *York* as *Doleman* says, was by the Lady *Philippa* a Woman, whereas that of *Henry* was by a male, and both by Law and Custom a male in the same degree if there be no other impediment, is always to be preferr'd in the Succession to a female.

whether a man or a woman in the same degree is to be preferred in Succession.

I ask thy opinion *Doleman*, supposing *Philip* or the Arch-Dukes Wife, whose cause thou hast undertaken to be an Advocate for in thy Book, were now called to the Kingdom, and the same thing was objected to them, which thou objectest to the Family of *York*; For both the Families of *Portugal* and *Castile* descend by Women: The King of *Portugal* being descended of *Philippa* the only Daughter of *Lancaster* by his first Marriage, and the King of *Castile* by *Catharine* a Daughter of the same *Lancaster* by his second Marriage, with *Constantia* the Daughter of King *Peter*; Indeed I know not what answer our Author can give to this; whilst he looks out for arguments from every quarter for establishing a right, that was ill acquir'd, and which rather overthrow and destroy it. So I come to discuss his fourth reason.

His fourth reason for the faction of *Lancaster* against the Family of *York* and it's Princes, that *Richard*, Earl of *Cambridge* Brother of the Duke of *York* who had married *Edmond Mortimer*'s Sister was executed at *Southampton* for a Conspiracy against *Henry* V. and so he could transmit no right nor pretence of Succession to his Posterity.

Doleman's *Argument from the Sentence which was executed upon the Earl of* Cambridge *confuted.*

This reason may be confuted by these five answers which I am to give to it. For the matter of fact indeed is certain, but the question is concerning it's right or lawfulness. And first *Richard* Duke of *York* as to the right of the Crown, Succeeded to his Mother *Anne Mortimer*, and not to his Father; but the Father's crime cou'd not prejudice the Son's Succession to his Mother. Secondly that Sentence was taken off; For his Son *Richard* did Succeed to his Uncle the Duke of *York* (who before the end of that year was killed in the Battle of *Agencourt*, after he had given great proofs of his extraordinary Bravery) and 'tis most likely that *Richard* his Nephew by his Brother, was upon the account of his Uncles great merits restor'd to his Father's Honours; For otherwise he could not have Succeeded his Uncle in the Dukedom of *York*, had not the Sentence against his Father, in so far as it affected the Son, been taken off before that. My third reply is, that what was then reckon'd a crime in *Richard* was some years after found to be just and lawful; For the Succession of the Kingdom, which did truly belong to *Mortimer* (which *Richard* attempted to restore to *Mortimer* by endeavouring to take *Henry* V. out of the way,

way, and was executed for that very thing) was afterwards adjudged to belong of right to the Family of *York*, and the three *Henry*'s of the houſe of *Lancaſter* were declared by the Parliament that was held at *Weſtminſter* in the year of our Lord 1461, *to have been Kings of* England *Succeſſively indeed, but not of Right*. The fourth anſwer is, that the Royal Blood cannot be tainted with Treaſon, Neither did ever the faults of a former Sovereign Prince hurt his next Succeſſor, as I have made appear before; nor can the right of the Crown be forfeited, nor cou'd any right accrue to *Lancaſter* or to any deſcended from him, from the crime and puniſhment of this *Richard*, from the doings or ordinances of the Exchequer: And therefore the guilt of *Richard* Earl of *Cambridge*, did in no wiſe prejudice his Son the Duke of *York*'s claim to the Kingdom, nor could it hurt him in Law.

The pretended innocency of the family of Lancaſter *conſider'd.*

As to what he ſays, of the Family of *Lancaſter*, that none of the Princes of it were condemn'd for Treaſon, 'tis ſilly; For all that time the Family of *Lancaſter* Reign'd and were in poſſeſſion of the Kingdom, and no man lets down his Nets into the Sea to catch Whales with them; And yet that Family of *Lancaſter* was not ſo free from Treaſonable Crimes, as our Author would have the World believe. For the Duke of *Lancaſter* in the reign of King *Richard* II. Forfeited his Life for Treaſon, and for taking Rebellious Arms againſt his Sovereign Lord the King; and alſo *Henry* VI. himſelf was found guilty of having violated that Convention or Agreement, between him and *Richard* Duke of *York*, which he had Sworn to obſerve inviolate, and ſo loſt his Enjoyment of the Crown, which before had been reſerv'd to him during Life, as one of the conditions of the Treaty. And the whole Family of *Somerſet* was oftner than once found guilty of Treaſon; and *Henry* VII. himſelf alſo, and yet that Attainder did not hinder his Succeſſion to the Crown.

The family of York *vindicated.*

A fifth reaſon that *Doleman* brings for the Family of *Lancaſter* and againſt that of *York*, is that *Edward* IV. did enter by violence and Infinite Bloodſhed, whereas *Henry* IV. entred without Bloodſhed, being called home by the Requeſts and Letters of the People and Nobility. To this I anſwer that *Henry* by his Ambition diſturb'd the whole face of the Common-wealth, he ſtain'd himſelf and his family and poſterity with Perjury, Perfidiouſneſs and Treachery; and moſt Wickedly and Baſely polluted himſelf with the Blood and Slaughter of the King's Friends. What he ſays, of his being called home and admitted to the Crown, ſo orderly by the whole Nobility is falſe; For ſhou'd we reckon them, it might be found that more were abſent than preſent at that Parliament; And ſuch as were preſent deſired indeed a Reformation of the State, which they hop'd for by his means, but they took it moſt Heinouſly that *Richard* was dethron'd, and *Henry* declar'd King; as happening beſides their intention and expectation. And therefore the Family of the *Percies*, to wit, the Earls of *Northumberland* and *Worceſter* (to whom he after his return from *France* had Sworn, that he was only to redreſs the Grievances and reform the Abuſes in the Government, but had no ill deſign againſt the King,) took Arms againſt him, and charg'd him with Perjury; Neither was there ever a more doubtfull or dangerous iſſue of War, than was in that Battle. The Duke of *York* with his Friends went avowedly home; *Lancaſter*, as himſelf publickly own'd, poſſeſs'd himſelf of the Kingdom by Arms, neither did his Grandſon loſe it any other way. We acknowlege that *Edward* IV. did not

not come to the poſſeſſion of the Kingdom without much Blood, but it was in an open War: For Arms are Lawful for them to whom they are neceſſary, and without which one cannot obtain his right. And yet the frowardneſs and perfidiouſneſs of the Family of *Lancaſter*, who broke the treaty or agreement, which was made between *Henry* VI. and *Richard* Duke of *York*, was the cauſe of all that bloodſhed. So at the Queen's Inſtigation they took arms again, having violated their oath, and *Somerſet* being overcome in Battle, he betook himſelf to *Edward*, as ſoon as *Edward* prevail'd and poſſeſs'd the Kingdom, and he obtain'd his pardon and favour, having ſworn allegiance to him; which nevertheleſs he baſely violated, as ſoon as there was any hopes of Succeſs from the arms of the Faction, and went away to the oppoſite Party. And thus moſt grievous and horridly cruel things were committed by both ſides, ſo as that it is not eaſie to determine which of them was moſt guilty; for that of *Horace* is true of them

Seditione, dolis, ſcelere atque libidine & ira
Iliacos intra muros peccatur & extra.

Seditions, Cheats and Luſts and impious rage
The Winners and the Loſers both engage.

But what kind of inference is that, the Houſe of *York* did not govern their own affairs well, therefore, they had no right to the Kingdom.

Richard II's. *Confeſſion was extorted from him.*

For anſwer to the Sixth Objection, namely the confeſſion of *Richard* II. I ſay that it was extorted from him by force; Neither did he ever acknowledge himſelf to be an Ill or Wicked man, but only that he was unfit for Government or to Reign; and *Lancaſter* endited that very confeſſion, to which *Richard* being under a juſt fear did ſubſcribe. But the Confeſſion of *Henry* IV. when he was on his death Bed, was of a far different Nature. For the *Furies* did ſo Torture and Rack his Conſcience for his Ambitious aſpiring after the Kingdom, and his Wicked acqueſt of it, that the remembrance of *Richard* only was inſtead of a Thouſand Tormenters to him. But if this affair was to be determined by Confeſſions, that Confeſſion of *Henry* VI. in that Tranſaction between him and the Duke of *York* is more conſiderable; For he acknowledg'd the right of the Kingdom to belong Juſtly or by Law to the Family of *York*, haing ſtipulated only for himſelf, that he ſhould Reign during life, and that Confeſſion was made when he was free and Maſter of himſelf, and reign'd alſo at that time: And yet there never was, by the confeſſion which was made by *Richard*, any right to the Kingdom acknowleg'd to belong to *Lancaſter*.

The argument from long poſſeſſion conſider'd.

The ſeventh objection, That the Houſe of *Lancaſter* had been in peaceable poſſeſſion of the Crown for the ſpace of 60 years, which poſſeſſion makes a bad title Lawful and not to be controverted. But if we will weigh this matter truly, the Houſe of *Lancaſter* did not enjoy Sixty years peaceable poſſeſſion of the Kingdom. For an interruption was made by *Richard* Earl of *Cambridge*, who upon that account loſt his Head. From the time that he was beheaded, which was in the year 1415. to the ſtop given to it by his Son *Richard*, there interven'd not full thirty ſix years. For *Henry* IV. was continually diſturb'd all his life long, with the terrors of his guilty conſcience, to ſay nothing of that terrible arm'd inter-

ruption of *Percie* Earl of *Northumberland*. So that there was no ſuch long preſcription, nor peaceable poſſeſſion, neither is any poſſeſſion without and againſt right ſufficient. But to avoid contention, They who think that the preſcription of ſixty years makes a good title, what will they ſay of the Family and Off-ſpring of *Henry* VII and his Wife *Elizabeth*, which has already reign'd peaceably for a hundred and forty years, from *Edward* IV. none interrupting them, nor ſo much as muttering againſt them? So that if *Doleman*'s Argument from preſcription be good, we have clearly gain'd our point. For *Edward* IV. and *Henry* VII. and thoſe who are deſcended from them, have poſſeſs'd the Kingdom peaceably a hundred and forty years. No man then can ſay, that the right and title of thoſe and of their Succeſſors, can be overthrown by theſe empty and new Pleas, which nevertheleſs *Doleman* endeavours to do. Neither is it to be wondred at that *Doleman* is contrary to himſelf in this objection, who had ſo often before aſſerted, that a Kingdom, or a Title to a Kingdom cou'd never preſcribe through length of time, but muſt remain intire, until one nicking his opportunity, may poſſeſs himſelf of his one right, by ſeizing it. That is a known ſaying of *Cato*'s *Contra Deum & contra Rempublicam, nulla temporis præſcriptio admittitur*. No preſcription of time is to take place againſt Religion, or againſt the Common-wealth. However it be, if no preſcription againſt Force and Violence be admitted, the Right of King *James* VI. is ſo much the better for that, as being moſt Ancient, he having Right even from before the Conquerour. But if preſcription be allow'd of, no doubt but the Families of *Edward* IV. and of *Henry* VII. have acquir'd that Right by preſcription, of both which Families the moſt Serene Prince King *James* is the Heir and Head.

Of the Succeſs and proſperity that attended the Lancaſtrian *Kings.*

The Eighth reaſon for *Lancaſter* is by way of Inference from the Succeſs and Proſperity that was during the Reign of the Kings of the Family of *Lancaſter*, all which time, ſays *Doleman*, the Realm enjoy'd more Peace, gain'd greater Honour, and enlarged more the Dominions of the Crown, than under thoſe of *York*. To which I anſwer, that it's a very bad conſequence, he Reign'd Proſperouſly, *Ergo*, his Title was good. By this way of reaſoning, he may prove that the Conquerour juſtly poſſeſs'd and maintain'd his Poſſeſſion of *England*, ſeeing he enlarg'd the Inheritance and Juriſdiction of it. But nothing was added to the Dominion of *England*, all the time of *Henry* IV's. Reign, on the Contrary many Places and Forts in *Aquitain*, and all *Normandy* were loſt. *Penry* V. by Arms ſubdued the greater part of *France*, but not without firſt Exhauſting *England* both of it's Men and Money; And yet his own Son *Henry* VI. loſt it all, and after all that vaſt expence of Blood and Money it cou'd never be reſtor'd. Neither can any man Juſtly object that any thing was loſt to the Kingdom of *England*, during the Reign of *Edward* IV. Nay it's Empire was enlarg'd by him, and it's Evident that he left it better than he found it, at leaſt it loſt nothing from its Boundaries in his time, which alſo may be ſaid of the reſt of the Family of *York*.

And of the friendſhip that was among the Princes of that Houſe.

Ninthly, all the Princes of the Houſe of *Lancaſter*, ſays *Doleman*, had ſingular Love and Faithfulneſs, one towards another, but the Princes of the Houſe of *York* have been Rigorous and Bloody, even to their own Kindred, and he Inſtances in *George* Duke of *Clarence* and *Richard*, the Brothers of *Edward* IV. As to that mutual Love among the Princes of *Lancaſter*, that can only be ſaid to have been between the Brothers of the Houſe of *Somerſet*, and the Fellowſhip of Arms or War, was the Bond

of

of that Love. Yet I do not excuse *Edward* IV. for puting to Death his Brother the Duke of *Clarence*. But who ever Reign'd so unexceptionably well as that no Blemish cou'd be found in his Government? Nevertheless the Duke of *Clarence* was not without Suspicion, as one, while the Earl of *Warwick* Govern'd all, or did what he pleas'd, who was declar'd Heir of the Kingdom, upon the Death of *Henry* VI. and his Son. As to the Severities Charg'd on *Edward* IV. *Henry* VII. and *Henry* VIII. tho' many great men lost their Heads, yet all that was done Judicially and they had a fair Trial: Neither are these Kings so much to be blam'd as the Peers are, who consented to these things, and Condemn'd the persons that suffer'd. However what was done Lawfully, by due Form of Justice and fair Trials, ought not to be charg'd upon those Kings. As for *Richard* III. I answer, that he not only exercis'd great cruelties upon his own Relations, but upon all others without distinction, even such as had deserv'd best of him, as appears by his treatment of the Duke of *Buckingham*. But what is this to the purpose? Is *Doleman* to infer the Justice of his cause from such a *medium*, or from such Stories? Had the Family of *York* no right to the Kingdom, because perhaps *Edward* and *Richard* were wicked men? Such a consequence contradicts all the Laws of reasoning. I shall say nothing of *Richard*, for he is condemn'd by both Families, as a most unjust man, and a horrid Tyrant.

Of the events of the Families which took part with York, *or with* Lancaster.

Doleman's tenth reason, that all the noble Families that supported the Intereſt of the House of *Lancaster*, flourish at this day, and that all other great Houses that took part with the House of *York* against *Lancaster*, have either ceas'd since, or been extirpated by the same House of *York*, which they assisted to get the Crown. Truly for my part I pretend not to be so throughly acquainted with the affairs of *England*, as to answer this Objection. But yet what he objects is not true, for 'tis certain that the Families of *Arundel*, *Westmorland* and *Northumberland* have decay'd already: And it's known that neither *Arundel* nor *Salisbury* did concern themselves in that contest between those Families; And *Northumberland* and *Westmoreland* endeavouring to dispossess *Henry* IV. of the Kingdom, had a very Hot and Bloody Engagement in the Battle which they Fought against him. But what he says, *Salisbury* dy'd without leaving Children, which he wou'd have imputed to the Family of *York*, is most Foolish. But with what Face do's he assert that *Warwick* and *Salisbury* were favourers of *Edward* IV. who drove him out of the Kingdom after he was in peaceable Possession of it, tho' they had been Friendly to him, while he Claim'd the Kingdom. But I doubt, it was their violating their Fidelity and Allegiance that mischiev'd them, and brought them to Ruine; But I shall rather stop here, than insist on a particular Examination of the several instances. Yet this I affirm, that nothing can be more Foreign to the proving the Right and Justice of the Family of *Lancaster*, than this reason of *Doleman*'s is; for he shall never be able by that *Medium* to prove the Title of *Lancaster*, to the satisfaction of any men of Sense, tho' he may impose upon Fools; nor yet by his last reason, which is their Crowning *Henry* VII. in the Field, after he got the Victory and *Richard* was killed, and that in the Right of the House of *Lancaster*. Which imports only that they who Crown'd *Henry* VII. thought that the House of *Lancaster* had the better right. But *Doleman* shou'd have consider'd that *Henry* VII. neither had any Right to the Crown of *England*, nor cou'd he have pretended to any Right to it, but by the Right of the Family of *Lan-*

Of Henry VII's *right.*

Lancaſter, of which he himſelf at that time was the Head. Can we think that all the Eſtates of *England* were then ſo Ignorant, as not to have known, who was then the Heir of the Family of *Lancaſter*? For *Doleman* denies plainly that *Henry* VII. was to be reckon'd of the Family of *Lancaſter*, but that the whole Right of that Family is devolv'd on the Houſe of *Portugal*, and that the Princes of *Portugal* are the only remainder of the Houſe of *Lancaſter*. But it deſerves to be conſider'd what *Henry* VII. even when Victorious, thought of himſelf and of his Title. For he preſently order'd the Duke of *Clarence*'s Son, as being of the Family of *York*, to be taken, fearing that troubles might ariſe from that Corner. And he Married *Elizabeth* the Daughter and Heir of King *Edward* IV. So by that Marriage, according to the ſentiments of all good men, that long and Bloody diſpute between the moſt Noble Families was Buried, when the Head of the Family of *Lancaſter* got the Heireſs of the Family of *York* in Marriage, and at laſt thereby, the long wiſh'd for quiet and tranquillity of *England*, was reſtor'd. And he who would renew that contention or controverſy, I make no doubt, but he will be found guilty before God, of all the Blood that has been already ſhed in it, or that ſhall be ſhed in that conteſt for the Future.

One reaſon for all againſt Lancaſter.

I ſhall bring one reaſon, againſt the Houſe of *Lancaſter* and it's head, ſufficient to ruine all *Doleman*'s reaſons, and it is agreeable to the Laws of God, Nature, Nations and to the Municipal Law of *England*, to wit *that no man ſhould reap any benefit from his own wicked deed or crime.* * But *Henry* IV. the head of the Family of *Lancaſter*, from whom the rights of the reſt of his houſe are deriv'd, acquir'd the Crown of *England* by a crime moſt horridly wicked. But what do I ſpeak of a Crime, nay in one he committed Six Hundred. For to obtain the Kingdom, which rightfully belong'd to and was poſſeſs'd by his Soveraign Lord *Richard* II. *Henry* tho' a Vaſſal murthered his Superiour, the Subject murther'd the Father of the Country, and his own King, a near Relation in Blood murther'd his own Couſin German, contrary to his Solemn Oath given to the King, both when he left the Kingdom, and after he return'd to it, a Rebell and one that was juſtly baniſh'd murther'd his Prince, whom having ſeiz'd and ſhut up in Priſon, and having the command of the Priſon he caus'd him to be moſt cruelly and inhumanely Butcher'd. And this complication of the worſt of monſtrouſly barbarous Crimes did *Lancaſter* commit, meerly to get the Kingdom to himſelf! But if *Henry* IV. by that deed could lawfully and juſtly poſſeſs the Kingdom, and could thereby convey a right to it to his own Family, then truly Lawful and Unlawful, Piety and Wickedneſs, Right and Wrong are confounded and jumbled together, ſo as no man afterwards ſhall be able to ſeparate or diſtinguiſh one from the other. And yet this *Doleman* ſticks not to aſſert that both *Henry* I. loſt his right to the Kingdom, as having excluded his Eldeſt Brother *Robert* from the Kingdom, and pronounces King *John* unworthy of the Kingdom, for having murther'd his Nephew *Arthur* Duke of *Britany*. But all theſe crimes and many more did *Henry* IV. accumulate, and ſhould they be all laid to his Charge, any one of them is enough to overwhelm him.

* Ne quis ex maleficio ſuo lucretur.

Thus

Thus much about the Controversy between the Two Families of *York* and *Lancaster*; and if the Family of *York* have the better right, if the Family of *Lancaster* could never without a crime pretend a right to the Crown of *England*, 'tis not worth the while for us to take pains to examine or weigh the Reasons, which are brought to favour the pretensions of *Philip* King of *Spain* or of his Sister. For when a Fountain is marr'd or dry, all the little Brooks which deriv'd from it, of necessity become dry, and when a Tree is fell'd at the root, all it's branches fall with it.

CHAP. XIII.

All the Objections that are made by Doleman, *against the Right and Title of the most Serene Prince King* James VI. *to the Crown of* England, *are fully confuted.*

Doleman, believing that he has made good, by the reasons which he brought in his former Chapter, that the Family of *Lancaster* has a better right by way of Succession to the Crown of *England* than the Family of *York*, he proceeds farther, and as it were, giving the Signal to an Engagement, he brings the Competitors of five Families upon the Stage, to dispute about their pretensions and right, the same *Doleman* making himself still judge or Arbitrator. Of which Families, says he, some pretend their Title, by the right of the Family of *Lancaster* alone; as those Families that are descended of the Line Royal of *Portugal* and *Castile*, who derive their right only from the Family of *Lancaster*. Others do pretend by the right of the house of *York* only, as those descended of *George* Duke of *Clarence*, who was Brother of *Edward* IV. Some again, says he, pretend a right from both houses joyned together, and so reckon themselves heirs of both Families; as all those that are descended from King *Henry* VII, such are the Families of *Scotland* and *Suffolk*. And others also who do not pretend their Titles from those Families of *York* and *Lancaster*, but make the original of their right to be from others before those Families were divided, as the *Infanta* of *Spain*, Dutchess of *Savoy*, the Prince of *Lorrain*, and such others as have descended of the House of *Britany* and *France*. *Doleman* then makes himself ready to discuss the Titles of all those, and to consider what is said or alledged of every side *pro* and *con*.

The Title of the King of Scotland *is preferable to the Titles of the other Competitors.*

And first he equips himself to examine, or rather, if he could, to overthrow the right of the most serene King of *Scotland* which nevertheless he confesses to be in the common opinion, the first and neareſt, and by consequence the best, as being descended of the first and eldest Daughter of *Henry* VII, these are his words, and so *Henry*'s Heirs male failing, the

King of *Scotland* by right of Blood is called to or has the right to the Succeſſion; Neither is his deſcent ſtain'd with Baſtardy, nor any other impediment, tho this Author whoſe Forehead is of Braſs, impudently aſſerts that he found few in *England* who Favoured him or his cauſe. But this aſſertion deſerves to be deſpis'd, for no Country in the World affords more good and juſt men than *England* does, or who are leſs capable of being induced to decline from or diſown a right, which they are convinced in their conſciences belongs to the King of *Scotland*. Neither do we deſire any other judges in this controverſy, but ſuch as favour Truth and Juſtice, of which kind of People there are vaſt Numbers in *England*.

The enquiry is, who is next heir to Q. Elizabeth.

I premis'd to this whole Controverſy, that the Queſtion now is not who was the true and lawful King and Heir of that moſt flouriſhing Kingdom for many ages paſt, nor yet who is the true Heir of the Family of *Lancaſter* or *York*. But the whole diſpute turns upon this point, and we are only concern'd to enquire here, who is the lawful and next Heir to the moſt ſerene Queen *Elizabeth* after her deceaſe; unleſs haply we ſhould ſay with *Doleman*, that her Majeſty is not Lawful Queen of *England*, and that *England* for Four or Five ages paſt, has had no rightful Government, but been under a conſtant Anarchy or Uſurpation. But let us hear this man's Objections, *quos &*

—Quantos jaculetur Monychus ornos.

What mighty Oaks this Centaur hurls.

His firſt objection againſt K. James vi. Doleman *part.* 2. *Chap.* 5.

His firſt objection againſt the moſt ſerene King, for excluding his Title by nearneſs of Blood, by which the Succeſſion to the Kingdom do's undoubtedly belong to him, is that he is not of the Houſe or Family of *Lancaſter*, but only of *York*, and he ſays that he has prov'd ſufficiently in his former Chapter that the Family of *Lancaſter*'s Title and Right is better than that of *York*, and that the *Spaniard* now is the Heir and Head of the Family of *Lancaſter*, ſo that he ought to Succeed to the Crown of *England*, and conſequently the King of *Scotland* ought to be excluded.

His ſecond objection.

His ſecond Objection that he brings is that tho' the King of *Scotland* had a better right by proximity of Blood, yet the Union of both Kingdoms would not be for the intereſt of *England*, but rather hurtful and prejudicial to *England*, which he endeavours to prove by ſome reaſons which he there brings.

I am much deceiv'd if I have not already fully anſwer'd all *Doleman*'s Reaſons, or rather his moſt ſilly Captions, by which he reckons the right of the Family of *Lancaſter* to be nearer and better than that of the Family of *York*. I add only one thing, that by the ſame argument he may inferr that *Elizabeth* is not Lawful Queen of *England*, which from the beginning I obſerv'd him covertly to aim at, and which he endeavours clandeſtinely by this Book of his to inſinuate into the minds of People. But as to what he ſays, that the King of *Scotland* is not of the Family of *Lancaſter*, as not being deſcended of the Lady *Blanche*, the Eldeſt Daughter thereof, who was married to the King of *Portugal* ſhall be afterwards anſwered, when we come to conſider the Line of *Portugal*, to which diſpute this point properly belongs. Where I doubt not to make

make appear by most true and solid reasons, that the King of *Scotland* is the one sole head and heir of both those Noble Families, after the decease of the most August Queen of *England*; altho' it be not necessary in this controversy that he be head of the Family of *Lancaster* it being certainly true, that the undoubted right of the Kingdom is in the Family of *York*.

The Objection of Foreign birth.

Doleman after that advances to these objections, which seem to exclude King *James* VI. from the Succession, and first he objects against him foreign birth. But I think I have so fully answer'd this already, that I need not weary the Reader with one Sentence more upon that head. But if this foreign birth could be objected against the title of the most Serene King, notwithstanding his being born in the same Island, and within the four Seas, what I pray shall we think of the titles of the Kings of *Portugal*, of *Philip* of *Spain*, or of his Sister the *Infanta*? 'Tis strange that *Doleman* should object this foreign birth to the most Serene King, who slights that very objection of foreign birth when propos'd by one *Highinton*, as also that from the last Will and Testament of *Henry* VIII. as frivolous and futilous, and which could not prejudice the right of Succession, tho' not from any good will for promoting the title of the most Serene King, but rather that he might take off, and ruine that common objection against him, and the King of *Spain* and the *Infanta Isabella*.

But they who are of the Family of *Suffolk*, says our Author, object against the Title of the King of *Scots*, that seeing a power had been granted by two Parliaments to *Henry* VIII, to name his Successor and heir by his last Will and Testament, and that all the Subjects of *England* should receive and acknowledge whomsoever he should appoint, *Henry* by his last will did ordain that the Children of his second Sister *Mary* should be preferr'd in the Succession, to the Children of his Eldest Sister *Margaret*. And he affirms that Testament to be good and valid; and to answer in all points the Statute tho' it had not the King's Hand or Subscription, but had his Seal only put to it; And seeing the King willed it to be done, it matters not how it was done, says he, it must be reckon'd his last Will, and that Testament of his was confirm'd by two Parliaments.

What answer shall be given to this? I knew this man to be a Hypocrite and a subtile Knave before, but now I have him in plainly for Forgery. For as to the words of the Statutes, they are to this purpose.

The Imperial Crown of England *shall remain to such person or persons in remainder or reversion, as his Highness shall name and appoint to be his Successor by his Letters Patents, Sealed under his great Seal, or by his last Will in writing, and signed with his Majesties hand.* Where it is expresly contain'd in these Acts; *whom the King by his last Will shall name in writing, signed with his hand.*

This

This good man like himſelf always, adds that the Seal or Stamp was enough in this affair, ſo that with him it is ſufficient to anſwer the intention of the Parliament, ſays he, that his laſt Will had his Signet or Seal put to it, tho' at the ſame time, there is no mention in the ſaid Statutes of the Seal to his Teſtament, but of his Subſcription, and in an affair of that importance as that laſt Will was, that it ſhould be ſubſcrib'd by the Kings hand was the leaſt that might be, ſeeing the Seal could be put to it by his *Amanuenſis* even after his Death. Yet I ſhall ſay nothing of thoſe two Acts or Statutes, tho' they exceed the condition and power of Mortals, nor how ſuch power could be given to any man, whatever his Dignity be, in an Hereditary Kingdom; eſpecially at the point of Death, to diſpoſe of the Kingdom, and to appoint what Succeſſor he pleas'd; Seeing at that time many things may happen which may diſturb his Judgment. Yet tho this might be diſpenſed with in ſo great a Prince, who could ever endure that an affair of the greateſt conſequence ſhould be intruſted to his *Amanuenſis*, and to his report that he was commanded by the King to ſet the Seal to it, or that ſuch power could be given to him, as that by his ſetting the Seal to it, the true and lawful Succeſſion of the Kingdom ſhould be taken away; who will believe it? Certainly the Houſe of *Suffolk* at this rate, ſhould they get the Kingdom, cou'd not owe it to the right of Succeſſion, but to *Will. Clark* one of the loweſt ſort of the People who acknowledg'd openly before Queen *Mary* and her *Privy Council*, and alſo before the *Parliament* that he put the Seal to that Will, after King *Henry* had loſt the uſe of his Reaſon, or was paſt Senſe and Memory, and who alſo was forgiven for that Crime and obtain'd the Queens Pardon upon his Confeſſion. For who can be better believ'd *in Crimine falſi*, that is, in Forgery, than the Author and Forger himſelf?

The Seal may be put by the Amanuenſis *only.*

But *Doleman* ſays, *that the two Acts of Parliament cannot in reaſon be eluded or overthrown by the Teſtimony of that* Clark, *or of others concerning himſelf or his own fact, wherein they ſay that the Kings Memory was gone when the Stamp was put to the Teſtament.* But the Forgery in putting the Seal to that paper may be evidently enough made appear, even from thoſe two Acts of Parliament themſelves, remaining in their Force; And it is quite another thing, the King could have done ſuch a thing, and the King did it. The King alſo could by vertue of thoſe two Acts have nominated his Succeſſor: But who will ſay that ever he did name his Succeſſor? Moreover had that Seal been put to the Paper by his command, yet even that did not come up to the intention and purport of thoſe two Statutes. For as the Biſhop of *Roſs* obſerves truly, and all the Lawyers. * if the form appointed by the Law to be obſerv'd, be omitted, the whole proceeding is null'd by that omiſſion [a]. Eſpecially when that form that's preſcrib'd for any reaſon ought to be obſerv'd [b], even after the reaſon ceaſes, for which it was introduced. Wherefore unleſs the King had obſerv'd and kept himſelf to that form, in making his laſt Will, which was appointed in thoſe two Acts, the Transferring of the Kingdom from the true Heir could never have been Eſtabliſh'd or confirm'd by ſuch his Will. But ſeeing this reaſon has been fully explain'd both by the Biſhop of *Roſs* and by my ſelf, I forbear to ſay any more of it here.

An Objection of Doleman's.

* Si forma a lege tradita ſit omiſſa, ea totus actus vitiatur.

[a] Bald. in L. non dubium C. de legibus.

[b] L. ſi fundus de rebus eorum, qui ſub tutela & cura ſunt, non alienandis.

But

But our Author ſays, that this laſt Will of King *Henry* which was not only authorized by two Acts of *Parliament*, but enrolled in the Chancery, ought not to be overthrown by one or two witneſſes. But it's evidently falſe that that will was authorized by two *Parliaments*, tho' the power of making ſuch a Will was granted to that King by thoſe *Parliaments*, yet that will was never ratified. For what was done a long time before cannot ratify, what is done after, eſpecially if it be done in a different form. This man is an ill Lawyer, a worſe Hiſtorian, but the worſt of all Divines, who thus perverts Law, Hiſtory and the Sacred Scriptures. I forbear to repeat here what I formerly brought from *Crantzius* of the monſtrouſneſs of transferring Kingdoms by Teſtament, or that the Houſe of *Suffolk* could lay claim to the Kingdom of *England*, and owe it to *Clark*, who was not ſo much as a Gentleman, but a Scoundrel, and to his prepoſterous Deed. How unreaſonable this is let every man judge for himſelf.

That forg'd Will was cancelled alſo by the Authority of the Eſtates, and expunged out of the Regiſter.

But was the matter once brought to a fair Tryal, the moſt Serene King would demand that the alledg'd Will, by which they of *Suffolk* endeavour to exclude him from his Right be ſhewn. For it's but juſt, if they would have him excluded by that Will, that they exhibit it, that he may know what can be inferr'd from it. But that Will was publickly cancel'd, as being evidently falſe and forg'd, by the authority of the Parliaiment, for the manifeſt and notorious falſities contain'd in it, King *James* being in no wiſe active in the thing, nor ſo much as knowing of it, for that affair was enquired into and decided among the *Engliſh* themſelves.

The third reaſon of the Family of Suffolk *againſt K.* James *from the Statute of Aſſociation.*

Doleman's unanſwerable argument comes next, which, ſays he, hath no ſolution or reply, and with this he batters the title of the King of *Scots*. This argument he tells us is grounded on a plain freſh Statute made in the *Parliament*, holden in the twenty ſeventh year of her Majeſty that now is, to wit the Statute of Aſſociation, wherein it is enacted that whoſoever ſhall be privy or acceſſary in conſpiring the death of the Queen, ſhall loſe all right, *&c.* that the ſame parties or their heirs have or may have to the Crown of *England*. And *Doleman* ſubſumes, but Queen *Mary* the Mother of this King was adjudg'd guilty of a Conſpiracy againſt the Queen of *England*, therefore her Children are for that deed forever excluded from the Succeſſion of the Kingdom of *England*. But *Doleman* is no leſs guilty of Forgery in this objection, than he was in the former. For in that Statute or Act, the heirs are not condemn'd to loſe their right to the Crown, unleſs they themſelves were either Authors or at leaſt privy or acceſſary to the death of the Queen. But this man by ſlight of hand leaves out all this, and will have all heirs, tho' never ſo innocent to be indifferently excluded. But the moſt noble Queen was of another mind, as appears from her own Letter to the moſt Serene King, in which ſhe takes care to diſtinguiſh the guilty heir from the innocent, and that none of the Competitors for the Kingdom ſhou'd ſuffer by the deed of his Parent, unleſs he himſelf were convict of ſome Overt Act of his own, upon legal Evidence; And the intention of the Eſtates of the Kingdom was quite different from *Doleman*'s. For they would not have the fact of the Mother (who had a mind to free her ſelf from an impriſonment which was contrary to the Law of Nations, by whatever means) to prejudice her Son. And therefore there is mention made expreſly in that Act

twice over of that Clauſe concerning the excluding Heirs, only in caſe

They attempt to hurt the Queen's Perſon, they ſhall be diſabled to have, or pretend Title to the Crown, after Judgment given and publiſhed. And if any ſuch Act ſhall be executed againſt the Queen's life, the offenders, by whom, or whoſe means, aſſent or privity, &c. ſhall be diſabled to pretend Title to the Crown.

But that I may retort this unanſwerable argument upon *Doleman*, that Statute was made expreſly againſt the Competitors for the Kingdom, becauſe (as I have before made appear) the *Parliament* knew, that the crime of Treaſon cou'd not hinder the Succeſſor from his Succeſſion. The Queen therefore, that no heir of the Crown might reap advantage by committing ſuch a crime, took care to have this ſpecial Statute made, againſt thoſe who pretended a title and right of Succeſſion to the Kingdom, that they might be excluded from their right of Succeſſion, in caſe they ſhould attempt to obtain it by a crime. But otherwiſe the Mind and Will both of the Queen, and of all the Eſtates of *Parliament* was, that every man's right ſhould remain whole and entire, provided he was free and blameleſs as to that crime, and eſpecially that it ſhould be ſo to the King of *Scotland*, who in all probability was pointed at as her Succeſſor by that very Act. Wherefore by that Statute the title of the moſt Serene King (who was never ſo much as privy to any crime againſt the moſt Auguſt Queen) was in no wiſe ſhaken or impair'd, but rather confirm'd. Beſides that Statute condemns none but upon ſufficient proof and evidences of his guilt, but I think it has never yet entred into any man's mind, that an enquiry ſhould be made into that crime againſt the moſt Serene Prince, or that he ſhould be charg'd with it, nor has he been ſo much as ſuſpected of it, and conſequently as well by the Will of the Queen, as of the Eſtates of *Parliament*, the right of Succeſſion ought to be preſerv'd for him entire by all men.

Doleman's *Objections againſt the Union of the Kingdoms.*

But *Doleman* being ſenſible that he had loſt all his Labour, that he had ſo induſtriouſly beſtow'd for overthrowing the right and title of the moſt ſerene King *James* of *Scotland* to the Succeſſion, and that he was not able by all the efforts he had made and his ſtrugglings againſt it, whether by his ſophiſtry or any other means to ſhake or move it, having quite ſpent all that Ammunition to no purpoſe, he comes to his laſt reſerve, having one dart wherewith he hopes to do execution. He feigns a diſcovery, to wit, that the Uniting of both Kingdoms would be unacceptable to the *Engliſh*, and that he has met with few in *England*, who favour the King of *Scots* Cauſe, and he aſſerts that ſuch a violent Union of the Kingdoms would do more harm than good to *England*. For ſays he, what other Benefit can it bring to *England*, than encreaſe of Subjects, to participate rather of the Commodities and Riches of *England*, than to import any from *Scotland*? Nay farther that the Riches of *England* would be impair'd, ſhould the *Scots* be admitted to places of Credit and Confidence, whether Spiritual or Temporal Offices, and Eccleſiaſtical Dignities indifferently with the *Engliſh*; Seeing there are not ſuch gainful places, nor ſuch rich

Whether the Union of the two Kingdoms under the King of Scots *wou'd be profitable to* England.

Ec-

Ecclesiastical Revenues, which the *English* might indifferently enjoy with the *Scots*. At last he belyes the two Nations, by saying that there is an aversion and natural Alienation or Hatred between them, which would hinder them from being Cemented together any time, in a firm and durable Friendship; He objects also the fierce and unquiet Temper of the *Scots*, and their great Friendship with the *Irish*, *Danes* and *French*, who have been Enemies to *England* time out of mind; So that he must necessarily make use of Foreign guards, for the Safety of his own Person, until his Affairs come to be Settled in *England*; Which the *English* cou'd never endure heretofore, nor can they ever comport with it; And consequently from this violent Union of Nations, so opposite one to another, discord and occasions of offence will rather ensue, than that lasting Peace and Friendship, that is hop'd for. I resolv'd to answer every one of these objections, tho' they are not to the purpose, nor do they in the least lessen the point of Right, that no Scruples may remain in Men's minds, nor any thing to obstruct the most happy Union or Conjunction of the whole Island. Neither is it to be fear'd, that *Doleman* has omitted any thing, which could hinder the Union of both Nations.

And whereas in the first place *Doleman* says, that he knows few in *England*, who favour the King of *Scots* cause. The most serene King looks for no other Friends or Favourers of his cause, but such as Love and are Friends of Truth and Justice, *England* abounds with such as much as any Country whatsoever, neither does he doubt, but the minds of the rest will be so overcome with the Justice of his Cause, and excited by the Judgments of God, who is the most severe *avenger of all unjustice and unrighteousness of men*, as that they will yield to that, which the Law of God, the Laws of men, and what the Municipal Laws of *England* command. And which ought chiefly to be minded, there are many who to the utmost of their power will procure that most happy union of minds, after so much War and Bloodshed ing. This was always the design of the *English*, and it appears sufficiently by one Paper that's still extant, of which the occasion was as follows. After King *James* V. of *Scotland* was dead, there remain'd his only Daughter and Heiress of the Kingdom, who was Born but six days before her Father's Death: *Henry* VIII. had a Son *Edward* VI. who was a most hopeful Prince, and at that time in the fourth year of his Age. *Henry* being a wise King, and desirous above all things, to promote the welfare and Interest of his own Kingdom, lays hold of an occasion that offer'd it self, and having many *Scots* Noblemen, who had been taken in War, Prisoners at that time, he set them all at Liberty, and having bestow'd rich Gifts and Presents upon them, he order'd them to return to *Scotland*, taking their Promise only for this, that they should use their best Endeavours to promote that Union and conjunction of the two Kingdoms, which had been so often and so long wish'd for by both, now that a fair opportunity offer'd it self. They after their return to their own Country, did faithfully perform their promise. For they, believing it to be for the Interest of the far greater party of both Nations, made it their whole business to have that Marriage between Prince *Edward* and Queen *Mary* agreed upon, and the *Regent* was at that time earnest enough for it, and so without farther delay upon the Arrival of the *English* Ambassadours, that affair was concluded, and the Treaty ratify'd and confirm'd by the great Seals of both Kingdoms.

Concerning the Epistle of the Protector and of all the Estates of England *to the* Scots *after the battle of* Pinket.

The English *desired earnestly an Union with* Scotland.

But

But the Enemy of all Peace and Union, hindred the affair then begun. There was at that time in the Kingdom of *Scotland*, one Cardinal *Beaton*, a fierce Prelate, who was moſt zealous and faithful to the Intereſts of the Church of *Rome*; This man having Aſſembled the Clergy throughout the whole Kingdom, told them that he and the whole Eccleſiaſtical Order would be deſtroy'd, unleſs a ſtop was put to that Match; *Henry* had now openly made defection from the Pope, ſeiz'd the Church Lands, and invaded all the Donations which had been given to Churches, his Son wou'd do the like in *Scotland*, and introduce *Luther*'s Heretical opinions. The Church of *Scotland* would be ruin'd, unleſs the Clergy, every one of them as he could, oppoſe that Marriage that it might never take effect, by importuning the Nobility according to every man's occaſions, Intereſt or Friendſhip with them, and that the Monks and Friars ſhould by their Sermons ſtir up the People to get that Treaty of Marriage broken; Neither did they deſiſt until they obtain'd what they aim'd at, having enticed the Regent and brought him over to their Party, by hopes of great Preferments in *France*, even as the Title and Dukedom of *Chaſtelleraut* was at that time conferr'd upon him.

The arts of the Clergy for hindring the Marriage between the heir of England, *and the Queen of* Scotland.

This gave occaſion to many calamities, wherewith we were afterwards afflicted, our beſt Towns were burnt, the *Scots* Army was overcome after a moſt bloody fight, while before the engagement between the Armies, the Protector of *England* by Letters full of humanity, deſired only of our Country men, that the whole affair might be delay'd, untill our young Queen ſhould come to a Marriageable Age, and that in the mean time, ſhe ſhould not be diſpos'd of in Marriage to any other, but left to chuſe a Husband for her ſelf with the advice of the Eſtates. But the deſtinies puſh'd forward our miſeries, and the letters being receiv'd by the Abbot of *Dumferling* were ſuppreſt, and a Battle was moſt unfortunatly fought at *Pinkie*. But after this Battle, our Country men being encourag'd with ſome aſſiſtance and promiſes of the King of *France*, who believ'd that the Union of both Kingdoms would be very prejudicial to him, they remitted nothing of their former ſtiffneſs, the Prelates like ſo many *Furies* ſtirring them up. The Eſtates of *England*, tho' victors wrote moſt courteous letters, by which they did with much concern Sollicit us to an agreement, and to our common peace and quiet, laying before us, the difficulties and miſchiefs which might accompany a War, ſhould it be continued; and of the advantages which we might reap by entring into Friendſhip with them. Firſt, ſay they, 'ſuch as ſhall read our Hiſtories, will find that there have been 'many moſt deſtructive Wars between the two Nations, and they muſt 'be amaz'd, that the people of the ſame Country and Language, ſhould 'have ſuch cruel and deadly quarrels among themſelves, and, ſay they, 'nothing is ſo much to be deſir'd, as that by ſome means the People of 'the whole Iſland might grow into one Civil Body, and be under one 'Government. Neither can any better expedient be found for obtaining 'that end, than Marriage is; And when God Almighty has pointed out 'to us and afforded us that mean, we *meaning the* Scots, by our own doings op-'poſe it; while from that Marriage, there might be a Bond of Perpetual and 'Immortal Friendſhip, between both Nations. And that we rejected that occa-'ſion that had been ſo much wiſh'd for, and yet did not offer it ſelf before 'for theſe Eight Hundred Years paſt. They tho' Victorious and almoſt 'Conquerours courted the *Scots* into a Peace, and while they poſſeſs'd a

The purport of the Letter from the Protector and Eſtates of England *to the* Scots.

'great

'great part of *Scotland*, were ready to share their own *England* with them. Nay they offer'd, 'That laying aside the names both of *English* and *Scots*, 'thereby to take away all names of distinction and hatred, both Nations 'should be called *Britain*, as being a designation common to both Kingdoms; 'they promised us a Share of all their own advantages, and at last they 'cry out, O miserable and wretched Obstinacy! We are on all quarters 'inclos'd with the Sea, as with impregnable Walls and Bulwarks, so that 'were we United among our selves in a firm Friendship, our happiness 'should be compleated, and we should make a most flourishing Monarchy a. These things and much more to this purpose, are contain'd in those Letters by which the *English* themselves bear witness, that the Union of both Kingdoms, was not less heartily wish'd for by themselves, than by us.

a Sleidanus lib 20. historiæ suæ.

And indeed in all that War, which from the time that it lasted, was called the nine years War, the *English* had the advantage of us both as to the Success of their Arms, and their cause; our aversion to the true Religion, which at that time we called Heresy, and the power of the Ecclesiastical Estate, which then made a great part of and had great Interest in the Kingdom, were highly prejudicial to us; or rather it may be ascrib'd to this, that we should not be United, unless our Bless'd Lord *Jesus* was the Reconciler, and the Light of his Gospel directing our way; Which after it shined upon us also, we not only rejected the Power of *France*, with that Friendship which had cost us so much Blood, but we most Religiously maintain'd a Friendship with the *English*, and made use of Auxiliary Forces from them. The humanity of the *English*, did indeed overcome all the causes of hatred, which our Country-men did afterwards witness by their Deeds: For while our Queen who was Dowager of *France* was to assist the King of *France*, he being at that time overcharg'd with War, both by the *English* and *Spaniards*, she caus'd War to be Proclaim'd against *England*, which the *Scots* Nobility took very ill; and when they met in Arms in Obedience to the Proclamation, the Queen took care to have the Artillery sent over *Tweed*, before the affair should be throughly consider'd, and all things were in readiness for Besieging the Castle of *Wark*. But the Nobility being extreamly displeas'd, that this was done without the Publick advice, order'd the Canon to be brought back, and because the War was declar'd without the Publick advice of the Nation, and that they did not reckon it a necessary War, they desisted from the Siege, and Disbanded the Army. For they said that they might employ their time better, than to make War without a just cause upon their Neighbours, who had in no wise provok'd them to it, by doing them any Injuries. Such was the grateful Sense that they retain'd of former good Offices. These things were done in *September* in the year of our Lord one Thousand five Hundred and Fifty seven, since which time even our greatest Enemies themselves acknowledge, that the Friendship and Alliance with *England*, has been truly and sincerely kept by us.

The Scots from that time cou'd not be compell'd even by their Soveraign to take arms against the English.

1557.

But *Doleman* condemns the Union of these Nations, so opposite one to another, as he says, as violent, and reasons against it, as being against the Interest and welfare of *England*, and brings many things which he reckons inconveniencies, and afterwards by all the arts that his Invention and Malice cou'd suggest, he first attacks the Title of the King of *Scots*, to try if by any means whatsoever he could shake it; but in case he should miss his design in that, as he rightly Divin'd he shou'd, he musters up all his Forces in the next place, and exerts his utmost Strength against the Uni-

Doleman's *falſe inſinuations againſt the Union of the Kingdoms confuted.*

ting of both Realms; and aſſerts that ſuch an Union as muſt enſue upon the moſt Serene King's Acceſſion to the Crown of *England*, will be inconvenient and hurtful to *England*. But how contrary this Aſſertion of his is, to the Judgment of the Peers of *England*, is evident from that Letter of theirs, of which I have juſt now given account. And yet it was never ſuffer'd to come into our hands, ſo as that we might have thereby grown wiſer; but was intercepted by the arts of the Prelates. Neither had it ever come to our knowledge, had it not occurr'd to us in reading *Sleidan*'s Commentaries. Which then are we to believe, *Doleman* who is a Trayterous man, and a mover of Sedition or Incendiary? Or ſhall we not rather believe the Peers and Eſtates of *England* themſelves, who took care to ſend that Letter which was conceiv'd in the Terms aboveſaid, into *Scotland*.

His firſt Objection againſt the Union, from the diſproportion of the riches of the two Kingdoms, conſider'd.

But pray let us hear *Doleman*, how and by what reaſons he oppoſes the joyning of the two Kingdoms. What (ſays he and many others) other advantage can that violent Union of Kingdoms, (for ſo he is pleas'd to call it,) bring to *England*, than increaſe of Subjects? And I ask Mr. *Doleman* what greater benefit can any Kingdom receive? For the King has the moſt extenſive and Proſperous Reign, who has the moſt Subjects, and the Royal Majeſty is in nothing ſo conſiderable, as in the numbers or Multitude of Subjects. Do'ſt thou reckon the Attallick Wealth or the Riches of *Cræſus*, which always became a prey to their Enemies, and which was a Powerful Temptation to the Courage and Rapaciouſneſs of their Aggreſſors, among the chief Bleſſings of a Kingdom? And wou'dſt thou have *Peru* or ſome other Country of *America* rather than *Scotland* joyn'd to *England*? The leſſer *Aſia* is the beſt Country in the whole World, and yet it never enjoy'd its own Kings from *Priamus*, but was always in Subjection either to the *Perſians* or to the *Grecians*. And many good men do not reckon Riches among the Goods of Fortune, *Fabricius* wiſh'd rather to Reign over Rich men than to have Riches himſelf:

——— *Non omnis fert omnia tellus*
Hic ſegetes, illic veniunt felicius uvæ,
Arborei fætus alibi, atque injuſſa vireſcunt
Gramina: Nonne vides Croceos ut Tmolus odores,
India mittit Ebur, molles ſua thura Sabæi,
At Chalybes nudi ferrum, viroſaque Pontus
Caſtorea, Eliadum palmas, Epirus equarum.

The richeſt Lands won't ſerve for every uſe,
Some better grain, ſome nobler Vines produce,
Some are for Fruits and native Paſtures beſt;
Hence Tmolus *is with fragrant Saffron bleſt,*
India *with Ivory the World ſupplys,*
Which Incenſe from the ſoft Sabeans *buys,*
In Steel for Trade the hot Sinopian *toils,*
And Pontus *ſells the Beavers fetid ſpoils,*
Epirus *is for fleeteſt Mares renown'd*
Oft with the fam'd Olympic *Garlands crown'd.*

Your

Your Lands are much better than ours and yield greater increaſe, you have great plenty of Wool, whence you get great riches, and yet they fall ſhort of the riches of the *French* or *Spaniards*; But thoſe ſoils which produce the moſt Joyful crop of men, are to be reckon'd the moſt happy; that of *Lucan* is univerſally commended

——————————— *Fœcunda virorum*
Paupertas fugitur, totoque accerſitur orbe
Quo Gens quæque perit.

Men Poverty mankind's Increaſer fly,
And rake the World for that by which they dy.

For 'tis certain, that in no other Country are ſo many Children born of one marriage, nor ſo many companies of Boys and Girls in proportion, to be ſeen as in our Country. How many Armies of *Scots*, while they were without a Head, were almoſt utterly deſtroy'd by *Edward* I? how many thouſands of that people killed? Yet they refus'd his offers of peace which were often made them, and they ſoon recruited their Armies when their Youth grew up, ſo as that of *Horace* might have been truly ſaid of them.

Duris ut ilex tonſa bipennibus
Nigræ feraci frondis in Algido,
Per damna, per cædes, ab ipſo
Ducit opes animumque ferro.
Non hydra ſecto corpore firmior
Vinci dolentem crevit in Herculem,
Monſtrumque ſummiſere Colchi
Majus Echionæve Thebæ.

As when tall Mountain Oaks their boughs
To th' active pruners knife expoſe,
Yet by their wounds and loſſes thrive
And fairer grow and longer live.
Not Hydra's *head more quick renew'd*
By angry Hercules *purſued,*
Nor Thebes *nor rough* Iberia *knew*
Monſters more terrible or new.

And this we can truly ſay, that the *Scots* have formerly with good Succeſs and with their own Souldiers only, unaſſiſted by any foreign auxiliaries, ſuſtain'd the impreſſion and aſſaults of the greateſt and moſt Warlike Nations, ſuch as the *Romans*, *Britons*, *Picts*, *Danes* and even of the *Engliſh* themſelves, the *Normans* being join'd to them, when both *England* and *France* have been ſubdued. People live as well and chearfully in *Scotland* as in other Countries, tho' perhaps not in ſuch Splendour, and for all their poverty there is nothing wanting not only to make them live plentifully, but even to Luxury alſo. But indeed *Scotland* does not pretend to maintain a ſtanding Army.

But

But ſome will tell us that we have no occaſion for mercenary Souldiers, nor to defend our own with other peoples aſſiſtance, and if we will have it, we have been as oft conquer'd, as we have been provok'd; However at this day none can juſtly reproach us with that, nor inſult over us upon that account. Neither *Spain* nor *France* made uſe of mercenary Souldiers or a ſtanding Militia till within theſe laſt three hundred years, and *England* more lately. The ancient manner of *Militia* depended on the riſe and Nature of Fiefs, in which the Vaſſals were obliged to maintain and defend the Fame and Dignity of their Lord or Superiour. And among us 'tis next to being infamous, if any will not vouchſafe to defend their Country, unleſs they be hired to do it. For ſo the Earl of *Angus* ſome years ago anſwer'd *Mary* the Queen Dowager, when the affair of hiring mercenary Souldiers was in agitation, that he wou'd not entruſt the ſubſtance and honour of the Nation to ſuch as fought for hire; but that they were ready, after the example of their Anceſtors, to expoſe their own perſons and hazard their own lives, for the ſafety of their Country; and thereby free themſelves from the unbridled licentiouſneſs of mercenaries. And there is nothing more reproachful among us, than if one calls another a mercenary Souldier, who unleſs he be hired with Money, will not aſſiſt his Country when in danger; And conſequently we are not oppreſs'd with thoſe grievous Taxes, immenſe exactions and unſupportable burdens, which at firſt were introduced upon no other account, but for paying ſuch hirelings of Souldiers; Neither ſhould they be applied to any other uſe.

And *Scotland* has it's own Subſtance and Riches. The Riches of *Scotland* are a hundred thouſand ſpear or pikemen, beſides one thouſand horſemen well arm'd, that are ready to venture their lives either for the ſafety or the honour of their Country; For ſo many did King *Alexander* II. bring into the field to oppoſe *Henry* III. King of *England*, who had already in hope and expectation devour'd all the Kingdom of *Scotland*; and who had brought together a moſt numerous Army even from foreign Countries, that he might ſeat himſelf in it. *Matthew Paris* in the life of *Henry* III. gives us this account. We ſhould abound with all things were we induſtrious enough, gainfull mechanical trades are either not known or deſpis'd even by them that are in a very poor condition, as *Cæſar* and *Tacitus* report of the *Germans* of Old. But I ſhall forbear to ſay any more in commendation of *Scotland*; for as *Horace* ſaid,

In Henrico iii.

Sed tacitus paſci ſi poſſet Corvus, haberet
Plus dapis, & rixæ multo minus, invidiæque.

Had but the Crow in ſilence fed,
He'd got more cheer and better ſped,
By envious arts unviſited.

Our poverty is neither uneaſy to our ſelves, nor to be Envy'd by others. And yet 'twou'd be no contemptible Acceſſion to the affairs and Riches of *England*, at leaſt in that they might ſave ſix hundred Thouſand Angellots, which are ſpent every year in paying the Garriſons of *Berwick*, *Carliſle* and other places in the borders. For then they will have no occaſion for great Garriſons, or a ſtanding Army of Mercenary Souldiers;

diers; Nor will the People be burden'd with Taxes for repreſſing the Rebel *Scots*; nor need the Value of the Money be chang'd or corrupted as *Henry* VIII. did in that War which he had againſt *James* V. But it's tedious to inſiſt on ſuch a point of which thinking people muſt needs be aſham'd, and where more is aſcrib'd to Money, than to true Virtue and real Fortitude.

The ſame diſpoſition in both Nations towards a mutual Friendſhip.

But *Doleman* tells us, that the *Scots* are naturally averſe to the *Engliſh*, and much more inclined to a Friendſhip with the *French* and the leſs Civilized part of *Ireland*, with whom one part of *Scotland* hath the greateſt Conjunction. So that if the King of *Scots* ſhould come to poſſeſs the Crown of *England*, he muſt needs, ſays he, Fortify himſelf with thoſe other Foreign Nations, that may be preſum'd to be moſt ſure to him, for his own ſafety, and this will be intolerable to the *Engliſh*. But *Doleman* knows not of whom he ſpeaks theſe things; For the moſt Serene King is an *Engliſhman*, and the Son of an *Engliſhman*, and to whom can he more ſafely entruſt himſelf, and the ſafety of his perſon than to his own *Engliſh* and his Fathers Kindred? For it is common to all men, to entruſt all their concerns rather to their Kinſmen by the Father ſide than to their Mothers Kindred, and to bear a far greater kindneſs to thoſe who are of the race or line of the Father, than to thoſe of the Mother. Neither was there ever any friendſhip and alliance betwen the *Scots* and *French*, but only for mutual defence againſt their common enemy. Let the cauſes of hatred and hoſtilities among the *Britiſh* be taken away, the friendſhip with *France* will ſoon decay, and when the *Engliſh* and *Scots* come to meet ſometimes in foreign Countries, they appear to be in a ſtrict and ſincere friendſhip, ſo as with relation to them, there is

——Unum & commune periclum
Una Salus ambobus erit.

One Common Danger, one Security
Shall the ſure Lot of both the Nations be.

As I my ſelf have ſometimes obſerv'd while I was at *Paris*, tho' in their own Country ſo many occaſions of offences happen between Neighbours, as that they ſeldom have a firm Peace or Friendſhip: For bold and warlike neighbouring Nations, if they have brave Commanders, look out every where for occaſions of quarrels; and one War brings on another: As *Livy* reports of *Tullus Hoſtilius* King of the *Romans*, and *Metius Suffetius* the King of the *Albans*. And yet there was a ſincere and firm Peace between the *Engliſh* and *Scots* in the time of *Henry* III. for the ſpace of fifty years without any interruption. And there has been a continual peace inviolably preſerv'd four and forty years, from the beginning of the moſt Auguſt Queen's reign, to the great benefit and advantage of both Nations. But if one may be allow'd to ſpeak truth without being ſuſpected of flattery or fauning, people of milder tempers, more humane affectionate and friendly, are not to be met with any where, than the *Scots* are; And during the whole time of theſe Alliances with *England*, the *Engliſh* did not live in more ſincere Friendſhip among themſelves, than the *Scots* did with them.

There was almoſt a continual Peace between both Nations before the reign of Edward i.

Neither is the Nature and Temper of our Country-men ſo untowardly and untractable as this Jugler repreſents it; For we moſt faithfully maintain'd a Peace with the *Britons* againſt the *Engliſh* Saxons, as I formerly obſerv'd from *Polydore* and *Beda*: As we did afterwards with the *Saxons* ſo ſoon as they renounc'd Paganiſm and became Chriſtians, and the *Scots* took Wives for themſelves from the Nation of the *Engliſh Saxons*, and again gave their own Daughters in Marriage to the *Engliſh Saxons*. And ſo they liv'd in the greateſt Friendſhip, being joyn'd together by mutual bonds, and aſſiſted one another againſt their Common Enemy. And thus jointly they ſuſtain'd the moſt violent impreſſions, attacks and Wars of the *Danes* and *Norwegians*, and with united Forces fought moſt Bloody and deſtructive Battles with thoſe aggreſſors; which I have already clearly made appear from the Monuments of the *Engliſh* ſtill extant. 'Tis true, Diſſentions ſometimes happen'd between them, yet they never came to Blows, but in the Reign of *Athelſtan*: But their former Friendſhip was ſoon reſtor'd, and they entred again into a new Confederacy againſt the Common Enemy, and Common Danger. And if our Hiſtorians deſerve to be believ'd, the *Danes* and *Norwegians* never deſiſted from infeſting *England*, until they were over-thrown in three moſt Bloody Battles Fought in *Scotland*, and were quite driven out of it. And if we compare the times when the *Danes* gave over their enterprizes upon *England* and ceas'd from invading it, perhaps we may be ſatisfied that our Hiſtorians deſerve to be believ'd.

The Friendſhip between the Engliſh *and* Scots *about the time of the* Conqueſt.

Afterwards when *William* the *Conquerour* had poſſeſs'd *England* by Force of Arms, and ſaid that all the Eſtates in *England*, belong'd to him by the right of War or Conqueſt, and all the Nobility of *England* were ſuch as he ſuſpected and had a Jealouſy of, the greater part of them Fled to King *Malcolm*. The Conquerour by his Heraulds demanded them of King *Malcolm*, who refuſing to deliver up thoſe Exiles, whom he had taken into his Protection, had War denounced againſt him. And when both Armies were drawn up in Battle array, ready to fall on, a Peace was procured by means of the Biſhops, upon theſe Terms, to wit, that there ſhould be an Indemnity for all paſt offences, and that all the *Engliſh* ſhou'd be allow'd to return to their own Country, which the *Conquerour*, tho' againſt his will, was yet fore'd to conſent to, unleſs he had choſen to put himſelf upon the dangerous Iſſue of a Battle. But as *Matthew Paris* ſays, the better part of the *Engliſh* choſe rather to continue ſtill in *Scotland*, than to return to their own Country in the Reign of the *Conquerour*, and ſuch as remain'd in *Scotland* had Lands and Inheritances beſtow'd upon them in that Kingdom, ſo as they gave riſe to ſome of the greateſt Families that are amongſt us at this day. And if we wou'd carefully and impartially Examine all theſe things, laying aſide all Emulation, and ſearch out the ancient Families of the *Engliſh*, we ſhall find them among the *Scots* and not among the *Engliſh*. For the *Normans* ſupplanting them, got very near all their Lands and Eſtates. Now had the *Scots* been ſuch a ſurly ill-natured People, or *Scotland* ſuch a place, as *Doleman* malicioufly pretends, they could not have Entertain'd thoſe of another Nation with ſuch kind of Hoſpitality, as they did the *Engliſh* in their diſtreſs. I ſhall bring two other inſtances from *Thomas Walſingham*, and *Froſart*, the one being an *Engliſh* writer, and the other a great Favourer of the *Engliſh*: And ſo the matter ſhall not depend meerly upon the Credit of our own Hiſtorians.

Wal-

Walſingham tells us, that *Robert* King of *Scotland* was overcome by the *Engliſh* in thirteen Battles, he loſt his four Brothers, who were all of them Brave men; and notwithſtanding that they were Priſoners of War, yet they were all put to an Ignominious Death, being ſhamefully Hang'd; The Earl of *Athol* was alſo taken, and when he told *Edward* himſelf of his quality, he was order'd to be Hang'd up upon a higher Gallows, and had all his Body diſmembred. Such Treatment was enough not only to inflame the mind of a Brave Prince to reſentments, but even to have enraged him. *Robert* having recover'd ſtrength was ſometimes Victorious, and at laſt having brought his Friends together from all quarters, he put all to the hazard of a Battle, which was Fought againſt *Edward* II. and it was a very Bloody one: In which tho' *Robert* was Victor, with the loſs of four Thouſand of the Stouteſt of his own men, nevertheleſs, as *Walſingham* ſays, he treated all the *Engliſh* Priſoners with Extraordinary humanity, ordering great care to be taken of the Wounded, and Chirurgeons to Cure them; And ſo beſtowing all kinds of neceſſaries upon all the Priſoners, he ſeem'd rather to uſe them like a Father, than like an Enemy or a Conquerour. And his tenderneſs towards them had that effect, that theſe *Engliſh* men during their whole Life, tho' they liv'd under a moſt fierce King, *Edward* III. would never willingly return to the Wars againſt *Scotland* nor invade it.

The firſt example is from Walſingham, *of the humanity of the* Scots *towards the* Engliſh.

We have another example in the battel of *Otterburn*, which was fought in the year 1388, with equal Bravery, tho' the forces were unequal. The Commanders of both Armies were moſt valiant men, and moſt intirely beloved in their reſpective Countries, *Percy* by the *Engliſh*, and *Douglaſs* by the *Scots*; And the engagement was with that fierceneſs and obſtinacy on both ſides, as that on one ſide *Percy* and his Brother, and on t'other *Douglaſs* were ſlain. The *Scots* notwithſtanding that they loſt their General obtain'd the victory, and brought a vaſt number of priſoners into their Camp. When the Biſhop of *Durham* was advancing to attack them with a freſh Army, and the *Scots* emboldened with Victory, did not ſhun an engagement with their new Enemy, in the mean while they deliberate what they ſhou'd do with the priſoners, who were almoſt equal to themſelves for number; ſome thought it neceſſary to kill them, leſt they ſhou'd come upon them behind whilſt they were engaged with a freſh Enemy; But that expedient was rejected by the reſt as too cruel and barbarous. So taking their bare promiſe, that they wou'd not hurt them in the leaſt during the Battle, nor make their eſcape; the *Scots* left the Captives in their own Camp. The Biſhop of *Durham* retired without hazarding a Battle, and the Captives, who were entruſted with the *Scots* Camp, kept their faith and promiſe intire and inviolate, and ſurrender'd themſelves again to the Victors. Let all the Wars of the *Aſſyrians*, *Macedonians*, *Grecians* and *Romans* be ſtrictly ſearch'd into, ranſack the *Annals* of all Nations, to ſee if ſuch another inſtance of moderation, faithfulneſs and humanity between Enemies, can be met with? The *Scots* tho' victorious in Battle, yet entruſted their Lives, Safety and Victory, to the naked promiſe of their Enemies even whilſt they were wet with Blood ſo lately ſhed, at a time, when they had Enemies both before and behind them, and theſe much the more dangerous who were upon their rear and cou'd have come upon their backs in the heat of Battle, as the five hundred *Numidians* at the Battel of *Cannæ*, who being inſtructed by

The next Inſtance is from Froſard.

by *Hannibal* feign'd themſelves fugitives. But the *Engliſh* when they had it in their power to ſet themſelves at Liberty, to be avenged of their Enemies, and to have obliterated the diſhonour which they had receiv'd, choſe rather to obſerve inviolate the promiſe they had given to their Enemies, than to return home with glory. For my part, if I am not very much deceiv'd, I think no ſuch example of humanity has occurr'd, nay not among the moſt friendly Nations. And 'tis not eaſy to know which of the two Nations kept the Articles of their mutual promiſes moſt faithfully.

There is the like inſtance in that Duel that was between *Lyndeſay* and *Matthew Reidman*, when both kept their faith ſo notably, that it's uncertain to poſterity, which of them was moſt indebted to the other for generous behaviour. And therefore *Doleman* muſt be mad, when he aſſerts that the *Scots* by Nature have ſuch an averſion to friendſhip with *England*, and that they are turbulent, barbarous, and always oppoſite and bitter Enemies to the *Engliſh*.

Froſard.

* Edward i. *his claiming homage from the* Scots *gave occaſion for the Wars between the two Nations.*

I know that there have been frequent Wars within theſe laſt three hundred years between them, which ſprung from that deteſtable and deſtructive conteſt about *Homage*, which the King of *England* aſſerted to be due to him, and the *Scots* conſtantly deny'd it to be due; And whilſt the *Engliſh* King wou'd not acknowledge that he had an equal in the Iſland, nor the *Scots* a Superiour, from this Pride and Vanity meerly did thoſe Wars and Contentions take their riſe. After we came to agree in one and the ſame true Religion, what Nation was ever more faithfull to another, than the *Scots* were to the *Engliſh*?

But *Doleman* objects alſo to the *Scots* that they choſe *Edward* I. to be their King, and ſwore Fealty to him, and afterwards broke it. But if he ever finds in any writer that the *Scots* acknowledged *Edward* I. for their King, let him ſhew it, and ſo carry his point. So long as *Edward* I. thought fit to make uſe of our Country-men as Friends, they were Faithful to him, and gave him their Aſſiſtance againſt the *Welſh*; But he no ſooner pretended to Authority over them as Subjects, but upon that very account that moſt Lamentable War commenced, which was not finiſhed with leſs than the Slaughter of three hundred Thouſand men. But why *Edward* I. why does not *Doleman* object rather *Henry* III. who was a very great Prince, and the Father of *Edward*, and who in a Civil War againſt *Simon* Earl of *Monfort* and other Barons of the Kingdom, who rebelled againſt him, and alſo againſt the *Welſh*, made uſe of the faithful and effectual Aſſiſtance of the *Scots*. In the firſt of which Wars he took ten Thouſand men, and in the Laſt five Thouſand from his Son in Law, King *Alexander* III. I will not now open a Wound which through length of time has been clos'd up and healed; but as for that moſt deſtructive War between the *Scots* and *Engliſh*, if any man will be at the Pains carefully to read *Hoveden* or *Walſingham*, who are Engliſh Hiſtorians, he ſhall find that they took their beginning from, and were occaſioned by, the Ambition of *Edward* I.

The objections from the Scots *behaviour towards the* Romans *conſider'd.*

Such another Objection is that which he brings about the *Romans*, and while he thinks he is miſchieving the *Scots*, he exſpatiates in their praiſes. For the *Romans* having ſubdued the reſt of the World, yet ſeeing they cou'd neither Conquer the *Scots* in War, nor reſtrain their Excurſions, they built that huge Wall which reach'd from the *German* to the *Iriſh* Sea, and was called *Adrian*'s Wall. But, Blockhead that thou art, what

is

is in all this that the *Scots* can be blam'd for, or reproach'd with? They made incurſions on the *Roman* Empire, and took a part of it to themſelves from the common Robbers of mankind, and what then? Did not all other warlike and brave Nations do the ſame thing? Neither had the *Scots* ever ſubmitted to the *Roman* Yoke, nor acknowledged them for their Lords. But thou art ſo intent on perverting every thing, that thou giveſt a wrong turn even to ſuch actions as merit the higheſt *encomiums*. For the *Scots* at that time took Arms againſt the *Romans*, for delivering *Britain* from their Yoke and Servitude, the event of the War was doubtfull, while they were ſometimes overcome by the *Romans*, and the *Romans* as often defeated by them. At length when the *Romans* cou'd not reſtrain a Fierce Nation, that they might fence themſelves and their province and Subjects of *Britain*, which was then reduced into a *Roman* Province, againſt their Aſſaults, they rear'd up that prodigious Wall, as hoping thereby to ſecure themſelves againſt the incurſions of the *Scots*. What can be inferr'd from all this, that's unworthy of the Brave and Generous? Was there any thing in that matter, but what was Honourable and agreeable to the Duty that they ow'd to themſelves and their Country? They did not infeſt their Lords, nor their Friends nor their Allies, but the conſtant aggreſſors and Enemies of all Nations. So we may conclude, that ſuch ſtuff had never dropt from a Malicious Enemy or a Virulent pen, had he found any Material or more Weighty Objections wherewith to have charg'd the *Scots*.

Tacitus.

What he ſays of the *Danes* and *French* is trifling. To what end ſhould the King plant *French* or *Daniſh* Guards about him, if he may make uſe of the *Engliſh*, of whom he is deſcended by his Father, or of the *Scots* of which Nation he is by his Mother. Nay it may be truly ſaid that he is an *Engliſhman* by both his Parents: For his Mother is deſcended of the *Engliſh*, not by one branch only, but by three or four; And the *Engliſh* at this day enjoy the Friendſhip both of the *Danes* and *French*, and reap no ſmall gain and advantages by their trade and intercourſe with both theſe Nations. By means of the moſt Serene King not only they, but all the other Princes of *Germany* alſo will come to be in a much cloſer Friendſhip and Alliance with *England*. And *Britain* will flouriſh, unleſs *Spain* cou'd hinder it, with a laſting and extenſive Peace under his auſpicious reign.

The Objection from the friendſhip between the Scots, French *and* Danes.

But in *Spain*, ſays *Doleman*, the *Caſtilians* refus'd to admit *Lewis* who was canoniz'd for a Saint, to be their King, and for that only reaſon becauſe he was a Foreigner, much more may the King of *Scots* be ſo ſerv'd, who is no St. *Lewis*, and whoſe Country of *Scotland* is not to be compar'd with *Caſtile*. In like manner the Eſtates of *Portugal* rejected *Beatrix* the true heir of the Kingdom, becauſe of her Marriage to a Foreigner, to wit, to the King of *Caſtile*. Wherefore the *Engliſh* have far better reaſons for debarring the moſt ſerene King, from his Succeſſion to the Crown of *England*, than either the *Caſtilians* or *Portugueſe* had, for what they did. Prethee, fond trifler, what kind of Argument bringeſt thou now? The *Caſtilians* and *Portugueſe* did unjuſtly and wickedly in refuſing the true and Lawful Heir of the Kingdom, *Ergo*, the *Engliſh* ought alſo to do the ſame, and add to their own Crimes, the wrongful doings of other Nations. I think thou ſhou'dſt rather have propos'd their Virtues for imitation than their Impious Vices; But thy malice and hatred againſt the moſt Serene King, has Clouded thy Judgment, and Brutify'd

An Example from Caſtile *and another from* Portugal *examin'd.*

thy underſtanding. Nevertheleſs I have made it appear already that theſe examples brought by thee are falſe: For moſt part of the *Spaniſh* Hiſtorians ſay that *Berengeria* was the Eldeſt Siſter of *Blancha*, which yet I do not think is true, ſeeing *Bodinus* ſays expreſly that by the Dutiful Letters which are as yet preſerv'd in the Archives of *France*, and which he affirms he himſelf read, the Nobility and Eſtates of *Caſtile* did with moſt earneſt intreaties invite *Lewis* to come and take upon him the Kingdom and Government, which by Hereditary Succeſſion deſcended upon him; yet he adds that *Lewis* refus'd, being ſenſible that he cou'd not enjoy both Kingdoms, and that he preferr'd *France* to *Caſtile*, as being under a better Climate and having a far richer Soil.

His Inſtance of Beatrix *of* Portugal *conſidered.*

His other Inſtance of *Beatrix* the Heireſs of *Portugal* is as falſe as the former. For the ſaid *Beatrix* whom *Doleman* feigns to be the true Heireſs of *Portugal* was an Adulterous Baſtard, by another man's Wife who was forcibly taken and detain'd from her Husband, as I obſerv'd before from *Froſard*; who gives a lively and exact deſcription of the particulars of that Rape and Adultery, as alſo that *Agnes* of *Caſtile* the Mother of *Beatrix* did ſurvive King *Ferdinand*. And ſeeing the *Portugueſe* had two Baſtards of their Royal Family, they preferr'd *John* who was by Concubinage only, to *Beatrix* who had been begotten in Adultery, a Male before a Female, to wit, this *John* before *Beatrix*. So both *Doleman's* examples with reſpect to Succeſſion in a Kingdom from *Spain*, are perfectly ſuitable to the Author and the Society that he belongs to, that is, vain, falſe and impertient. For nothing is more commonly Practis'd by him and his Tribe, than to bear down Truth with Falſhoods; but it's pure Impudence or rather Madneſs, to put the ſtreſs of his Cauſe upon things evidently falſe. Why does not he bring the example of *Eric* Duke of *Pomerania*, who was of the Nation of the *Vandals*, the inveterate Enemies of the *Danes*, and yet he was adopted to inherit the Kingdom of *Danemark* by *Margaret*, the Daughter of *Waldemar*, and notwithſtanding he was a Foreigner, he was made King of the three Kingdoms of *Danemark*, *Sweden* and *Norway*.

Doleman's *Objection with relation to ſome differences in Religion between the* Engliſh *and* Scots.

Doleman adds, that no good Agreement as to Religion can enſue upon the King of *Scots* Entrance into *England*, Seeing the Kingdom of *Scotland* maintains a form of Religion, which is not only different from, but even oppoſite to that form that is maintain'd in *England*. For in *Scotland* there are neither Biſhops, nor Arch-Biſhops, nor Deans, Arch-Deacons nor other ſuch Eccleſiaſtical Dignities. * I am much of St. *Jerome*'s opinion, that thoſe names of Dignities were firſt invented by the Enemy of mankind, and introduced into the Church for Cheriſhing Pride, Ambition, Contention and Riches, for *Jerome* thought that the name Prieſt was ſufficient alone (and I think he was a little wiſer than my Adverſary) as at this time many think the names and Offices of Miniſters in the Church are enough, ſeeing every Miniſter is a Biſhop in his own Church; Neither does a Miniſter with us give place to any Man in his own Pariſh, as he ought not, unleſs it be to a Lord or Baron. Nor are endowments wanting in *Scotland* for the maintenance of the Eccleſiaſtical Order, by which

* *Here it is worthy obſervation that the Doctrines taught, the Principale laid down and purſued, and the Truths aſſerted in this Treatiſe, are not the work of ſome Tory, ſome high-flying Church-man, but of one whoſe byaſs ſeems to have been another way, at leaſt he owns himſelf to be againſt the Titles of Dignities which obtain'd in the Church univerſally, and therefore deſerv'd not ſuch a hard cenſure.*

which they may live at leaſt honeſtly with due reſpect and without the leaſt contempt, tho' they cannot live up to their former Ambition, yet much above what is preſcrib'd by the word of God. The moſt ſerene King has endeavour'd, as much as cou'd be, to reſtore theſe Eccleſiaſtical dignities; But if I am not miſtaken, it will be as hard for him to do it, as it was for *Mary* Queen of *England* to reſtore the Monaſteries, which had been ruined by her Father *Henry* VIII. For the Nobility were ſo entangled and caught with theſe pleaſant baits, the Lands and Tithes of the Church, that without the diſpleaſure of them all, it was not to be done; So after trial made that deſign was at laſt given over. But that all things in *Scotland* are order'd by a tumultuary company of *Miniſters*, and that the King himſelf ſtandeth in awe of this exorbitant power of theſe *Miniſters*, both theſe aſſertions are moſt falſe. For theſe Miniſters have no authority and juriſdiction in the management of affairs, and the King is not only preſent but alſo Preſident in their Synods and Eccleſiaſtical Aſſemblies, which ſhows his Authority in matters Eccleſiaſtical. And as he has a ſincere affection for them, as being Preachers of the true Religion, and defends them, ſo they never ceaſe to put up their Prayers to God for his ſafety, and for Bleſſings to deſcend both upon himſelf and the whole Royal Family. The *Miniſters* have indeed ſome power of cenſuring Scandals and Immoralities; which I think ought to be in every well conſtituted State. Nor are there any perſons more fit than Miniſters to inflict ſuch cenſures. This has been always practis'd hitherto every where even in the *Roman* Church it ſelf.

And thus I have examin'd whatever this Sophiſter has feign'd and muſter'd up againſt the moſt undoubted right of the moſt Serene King, and at the ſame time 'tis evident that he treats him and all the *Scots* with the moſt virulent licentiouſneſs of expreſſion. For whilſt in the right of Succeſſion he is forc'd even againſt his Will to join iſſue with us, when he has nothing to ſay that's biting, or where he may tire his teeth with gnawing, all the reſt are chat and vain trifles, and deſerve more to be hiſs'd at than confuted.

As to what things this Juggler objects againſt the Lady *Arabella*, the Houſes of *Huntington*, *Derby* and *Hartford*, in order to remove every impediment, and to make the way plain and eaſy for the King of *Spain*, or his *Infanta*, I ſhall not ſtop either to conſider their right or to expoſe their Perſons; For that none of them are ignorant that they all come after the moſt Serene King, if it be allow'd that the Succeſſion is due to the order or rank of Blood or birth-right. Neither do I believe that ever it entred the mind of any of them, to make themſelves parties in ſuch an unjuſt diſpute, and which would take away all diſtinctions of truth and falſehood, right and wrong; But that they will give up all their pretenſions without ever coming to a hearing. For *Doleman*'s Plot here is this one thing, to make the King, if poſſible, jealous of all theſe perſons, and them all to entertain a ſuſpicion of the King; and that all of them might believe that they might reckon upon having Enemies, if at any time either one or other of them ſhou'd obtain the Crown of *England*. And ſo they muſt be upon their Guard, and Jealouſies being once entertain'd, each of them may form the beſt meaſures that he can deviſe, for keeping back his Rival from the Succeſſion. And this is plainly *Doleman*'s deſign, theſe are his Arts, to create Rivals and Enemies to us from every quarter.

Concerning the Lady Arabella.

I wiſh very well to the Lady *Arabella*, nor do I ſee any thing that could hinder her from the Succeſſion, to the moſt Serene King, had he not a preferable right. For all the objections which *Doleman* brings againſt her are either fooliſh, or elſe lyes and forgeries. For we all know that Queen *Margaret* was not married to *Stuart* of *Methwin*, but after the Baniſhment and divorce with *Archibald* Earl of *Angus*. What he writes of the former Marriage of *Douglaſs* is all meer fiction from a baſe deſign to impoſe upon the World.

And Huntingtou.

Beſides other things which are ſaid by *Doleman*, with relation to *Huntington*, he plainly diſcovers himſelf and takes off his mask, when he objects his Religion againſt him; And upon that account would have him excluded from the Succeſſion of the Crown, both by the Civil and Canon Law, as he ſays. And this ſhews us clearly what was *Doleman*'s great deſign from the beginning, when he pleaded againſt the admitting a *Mahometan* or *Saracen* to the Succeſſion. Which is that this being once granted him, he might ſtraight ſubjoin that *Hereticks* alſo are not leſs to be debarr'd and excluded from the Succeſſion, but rather more than *Mahometans* or *Apoſtates*.

CHAP. XIV.

All the Arguments, which are brought by Doleman *for the right of the* Infanta Iſabella Clara Eugenia, *Wife to the* Arch-Duke *of* Auſtria, *and Daughter of* Philip *King of* Spain, *to the Succeſſion of the Crown of* England, *are examin'd and confuted.*

THE Controverſy concerning the right of the Families of *France* and *Bretaigne* in *France* comes next to be conſider'd; And to each of them *Doleman* employs all his might to make the Succeſſion of the Crown due by right of Blood. And becauſe as he aſſerts the right of both thoſe moſt Noble Families being mingled or joyn'd, is Lodged in *Iſabella* the Wife of the *Arch-Duke* of *Auſtria* and *Burgundy*, and Siſter of King *Philip*, this Author, whoſe greateſt pleaſure is in vanity and lyes, affirms that therefore ſhe is in this affair to be preferr'd before the reſt of the Competitors, to wit, to the King of *Scots*, *Derby*, *Huntington* and *Hartford:* And that not only the Succeſſion of *England*, but alſo of *Aquitain*, *Bretaigne*, *Normandy*, *Anjou* and *Poictou*, which came to the Crown of *France*, not by Virtue of the *Salick* Law, but upon the account of Female Succeſſion, at leaſt theſe Provinces were Lawfully devolv'd to Women, and were by them poſſeſs'd as their inheritance. I have indeed often heard, and read that the King of *England* has a claim to the Succeſſion of the Crown of *France*, but never before this, that the King of *France* pretended a right to the Succeſſion of *England*.

But

The fourfold right of Iſabella-Clara Eugenia.

But that we may examine and weigh this right that this *Infanta Iſabella* pretends to, this *Doleman*, a moſt effectual impoſtor, affirms, that ſhe has a fourfold right, or derives her right from four Fountains. For Firſt, ſays he, ſhe is of the Ancient Blood Royal of *England*, to wit, by *Conſtantia* the Eldeſt Daughter of *William* the *Conquerour* and who was Married to the Duke of *Bretaigne*. But what follows from that; For if all things were narrowly canvaſs'd, truly the *Conquerour* himſelf the Father of that Lady, will not be found to have been of the Blood Royal of *England*, nor was he ever any thing elſe but only a *Norman* or a *French* man by his extraction. But if it might be allow'd to derive the right to the Kingdom from ſo remote a Fountain, then the true Succeſſor of the Kingdom of *England* after the Death of *Edward* the *Confeſſor*, when the Conquerour invaded and oppreſt that Kingdom, by arm'd force, was *Edgar Atheling*, who doubtleſs was the true Heir of the Kingdom, (as being the Grandſon of the moſt noble King *Edmund*,) and was alſo declar'd and appointed Heir of it, by King *Edward* the laſt of the *Engliſh-Saxon* Kings. But *Edgar* dying without Children, the whole right devolv'd upon his Siſter *Margaret*, who was Queen of *Scotland*. From her the moſt ſerene King of *Scotland* is Lineally (ſo to ſpeak) deſcended, who now is the only Heir of the true ancient Royal blood of *England*, to which the Succeſſion of the Kingdom did truly belong, even in the time of the Conquerour. All the reſt of the Princes of *England* derive their original from the Stock or Lineage of the *Normans*, and not from the ancient Royal blood of the *Engliſh*.

Her firſt claim by Conſtantia *the eldeſt Daughter of the* Conquerour.

But let us yield them that point which ſeems even neceſſary to be granted, that the right of Succeſſion came to belong to the *Conquerour*, and to his Children; yet there are ſo very many Heirs in that Line, who have a preferable right of Succeſſion before this *Infanta*, that there is no place for her to hope for any thing. For what room is there for ſuch as claim under a Daughter, while there is a Son, and Lawful Children by him, as there remain to this day deſcendants in a ſtraight Line from *Henry* I. who was a Son of the *Conquerour*.

Henry *firſt's behaviour towards his Brother* Robert *conſider'd.*

But *Doleman* has a reply to this, why, ſays he, *Henry* I. loſt his right to the Kingdom for the violence that he uſed to his elder Brother *Robert*, who was the *Conquerour*'s eldeſt Son; And ſo he open'd a way for the Dutcheſs of *Bretaigne* to enter as eldeſt Siſter. But if *Henry* I. was to be deprived of the Kingdom, as being unworthy and uncapable of it, for the violence done by him to his Brother, what did *Robert* deſerve, who ſtirred up Enemies againſt his Father whereſoever he cou'd, and eſpecially the King of *France*; And who alſo himſelf fought twice in Battle againſt his Father, and thruſt him through the Arm with a Spear, after he had diſmounted him from his Horſe, while he aim'd the thruſt at his Heart? I think no man has ſo far diveſted himſelf of Modeſty, as not to think with himſelf, that this *Robert* deſerv'd to be diſinherited, and that he had rendred himſelf unworthy of the Kingdom. But his Father, who was a moſt mild and forgiving Parent, left him all his ancient inheritance which he had deriv'd from his anceſtors, to wit, all his Provinces beyond the Sea. But what he himſelf had purchas'd with his Sword, he could leave that to whom he would, as well by the Laws of God as of Men; And eſpecially as well by the Law of *England* as of *France*. By the Divine Law *Jacob* gave to his Son *Joſeph* whom he

lov'd above the reſt of his Sons, that Portion of Land above his Bre-
Gen. xlviii. 22. thren, *which he took out of the hand of the* Amorite *with his Sword and with his Bow.* Above his Brethren, I ſay, becauſe God had promis'd to them the Land of *Canaan* to be an inheritance, and it was as certainly at that time their Inheritance by faith, as if they had corporally poſſeſs'd it. Neither would that moſt holy Patriarch have depriv'd any of his Children of their Inheritance. But yet what he had acquired by War, he diſpos'd of as he thought fit, even as by the common Law of *England* and *France*, any perſon may lawfully diſpoſe of his Conqueſts even by his laſt Will. Wherefore the *Conquerour* did nothing but what he might lawfully and rightfully do, who having left his ancient Eſtate of *Normandy* to his Eldeſt Son appointed *William Rufus*, and his heirs, to Succeed him in the Kingdom of *England*; Neither are *Rufus* nor *Henry* I. to be blam'd for obeying the determination and laſt Will of their Father.

But there was an expreſs agreement, ſays, *Doleman*, between *Robert* and *Rufus*, by which *Robert* ſhould have Succeeded next after the death of the ſaid *Rufus*. I anſwer that the publick right is not to be alter'd by ſuch private agreements, neither ought the rightful Succeſſion in Kingdoms to be overturn'd by ſuch pacts or agreements. *Rufus* being dead *Henry* Succeeded to him, becauſe in Law an Inheritance deſcends, but does not aſcend. So *Henry* had for himſelf a right and title, by which after his Brother *Rufus*'s death, he could demand and poſſeſs the Succeſſion of the Kingdom, which he thought belong'd to him by the beſt kind of right. Whether *Conſtance* with her Son *Conan* ſhould have been preferr'd, before her Siſter *Adela* with her *Stephen*, is nothing to the purpoſe, ſeeing the right of them both was excluded by *Henry* II. who was Grandſon of *Henry* I. by his Daughter. For, that the Siſter can never make any part in the Succeſſion with the Brother, ſhall be made appear afterwards; as neither can the deſcendants from the Siſter with thoſe who are deſcended of the Brother. And now this *Robert* the firſt born of the *Norman Conquerour*, with his Son *William* and all his poſterity is extinct. And there is not one left to complain of that injury, if any wrong was done him; And conſequently the undoubted Succeſſion, this *Infanta* being diſcarded, belongs to the progeny of *Henry* I. Neither is it any wiſe probable that *Stephen* would have attempted, or that the *Engliſh* wou'd have receiv'd him for their King, if he had been born of the ſecond Daughter only of *William* the *Conquerour*.

Laſtly, the mighty Crime which *Henry* I. as *Doleman* ſays, was guilty of againſt his Brother *Robert*, was truly this: that after he had taken him Priſoner in War, he detain'd him in Priſon, which whether or not this might have been lawfully done to Priſoners of War, no man, who knows the Law of Nations, can be ignorant of. Moreover tho' *Henry* I. had got the Kingdom by a Crime, and therefore deſerv'd to loſe it, yet it could not accrue to the next in kin; but if it was a fee liege, then it was to go to the Superior or Lord, otherwiſe it accrued to the *Exchequer*. But where there is no *Exchequer* nor any Superior Lord to whom it may accrue, the puniſhment of the Crime is to be remitted even to him who is guilty; ſeeing there is no perſon who can demand the penalty. Or if any perſon ſeems to be unworthy of a benefit, which he has purchas'd with a Crime, yet if there be none to whom it

may

may accrue, it neceſſarily remains with the heirs of the Exchequer. But the heirs of the Exchequer or of the Crown, after *Henry*'s death were his Daughter *Maud*, and her Children, and ſo the benefit returns to the perſon himſelf, when it has none elſe to whom it can accrue. And this is the reaſon, why the guilt of High Treaſon, can never exclude one from the Succeſſion of the Crown, as I have proved before. But whether one can by his Crime afterwards loſe his right to the Kingdom, ſhall be conſidered by and by in the caſe of King *John*.

The Conteſt between Artabazanes *and* Xerxes.

I remember I have read ſometime in *Herodotus* of that noble conteſt, which was between the two Sons of *Darius Hyſtaſpis*, *Artabazanes* and *Xerxes*, which of them ſhou'd Succeed to their Father. For when their Father was preparing to undertake an expedition againſt the *Ethiopians* and the *Athenians*, there aroſe a great diſpute between his Sons concerning the Kingdom. For by the ancient Ordinance of the *Perſians*, it was not allow'd to their Kings to go upon an Expedition, unleſs they had firſt declared who was their Succeſſor in the Kingdom. And *Artabazanes* was the firſt born, but his Father had only been a private man at the time of his Birth. *Xerxes* was indeed younger, but his Father was King when he was Born. *Artabazanes* ſaid that the Kingdom belong'd to him, as being the Eldeſt Son, by the right of Primogeniture, and by the Law of Nations; Seeing this was the cuſtom of all men, that the Eldeſt Son always obtain'd the Inheritance. But *Xerxes*, by the advice of *Damaratus*, who being Baniſh'd *Sparta*, and diveſted of his Kingdom, liv'd in Exile at *Suſa*, ſaid that he ought to be perferr'd, as being Born when his Father was a King, whereas *Artabazanes* was Born whilſt his Father was only a private man. And conſequently it was neither Juſt nor Right, that any but the Son of a King, ſhould Succeed to the Kingdom; the Riches of their Father, when a private man, belong'd to the reſt of his Children, but the Kingdom to him only, who was born in the Kingdom or after his Father was King, and Educated in hopes of it. And he added that this was the Law of the *Spartans* or *Lacedæmonians*, and was always in Force among them. *Darius* being overcome with his reaſons, (for *Xerxes* had been Born after his Father *Darius* had been Choſen King by the Neighing of his Horſe, and acknowledged as ſuch) he appointed *Xerxes* to be his Succeſſor.

Lib. 7. de Republ.

But whether his deciſion was juſt or otherwiſe, is a great Controverſy among the greateſt, and moſt learned Writers. *Gregorius Tholoſanus* makes a Collection of all their Opinions, and of their Reaſons on this point; and concludes from the better part of them, That if it was an Ancient Hereditary Kingdom, or ſuch as was convey'd by Succeſſion, there ought to be no diſtinction made of the Children, and that the firſt Born ought to be preferred to the reſt; Becauſe they Succeed as Children, and the Succeſſion is due to them as ſuch. But otherwiſe in caſe the Kingdom be acquired by Arms, or purchas'd by Force or Cunning. Seeing the Father owes it to none but only to his own virtue and induſtry, he can diſpoſe of that Kingdom which he himſelf acquir'd according to his own pleaſure; And if he thinks fit may exclude all his Sons, much more may he Exclude his firſt Born. For by the Law of Nations, a free Liberty is given to every man, to diſpoſe of whatever effects have been acquir'd by himſelf, after Dominion and Property was diſtinguiſh'd by the Law of Nations, and every man was at full Liberty, to do with his own what he thought fit. Neither is this altogether diſagreable even to the Civil Law;

Whether Children begotten of a King while a private man may be called the Kings Children.

Law; For Children who are Born after their Father obtains ſome Dignity, enjoy certain privileges which are not common with them to the reſt of his Children. Nay the Son of a Senator, who was born before his Father got that Dignity, was not the Senators Son. *Hotomannus* takes another way for reconciling theſe different Opinions, ſo as that *in jure Univerſali* the firſt Born, who was Born before his Father came to the Kingdom, ought to Succeed, *in Singularibus*, none but he who is Born after the Dignity is acquir'd. And this comes much to the ſame thing.

As for my ſelf, I wou'd rather chuſe to ſubſcribe to the Opinion of *Gregorius Tholoſanus*, partly becauſe it is the vulgar and commonly receiv'd opinion of all the Doctors, and partly becauſe it is confirm'd by the example of the Patriarch *Jacob*, who diſpos'd freely of that which he had acquir'd by the Arms of War. And in *England*, as I ſaid, the Children of ſuch as are Naturaliz'd, who were Born before the Naturalization, are poſt-pon'd in the Succeſſion of their Father, to them who are Born after it was obtain'd, but 'tis in ſuch things only as he acquires in that Kingdom, of which he is made a Denizen. From all which then 'tis Evident that the right of Succeſſion to the Kingdom of *England*, did appertain to *Henry* I. For he only of all the *Conquerour*'s Children, was an *Engliſh-man* Born in *England*, and was Born when his Father was King. To all which may be added, alſo his Father's diſpoſition; And by conſequence he did not obtain that Kingdom by a Crime, but was Lawfully poſſeſs'd of it. And when he was aſſaulted by Arms by his Brother *Robert*, he defended his own Poſſeſſions by a Lawful and Pious War; and having overcome his Brother and made him Priſoner, he detain'd him in Priſon, to prevent his diſquieting the Peace of the Kingdom for the future.

This is not without Precedents, tho' not always attended with Succeſs. For *Otho* I. and *Henry* who were Brothers, ſtrove between themſelves for the Empire, and *Otho* as being the firſt Born, thought that he ought to have been perferr'd, and *Henry* claim'd the preference, becauſe he was Born when his Father was Emperour. For he was perſwaded that the Government belong'd rather to him, becauſe he was Born in the Kingdom, or in the Reign of his Father, than to *Otho* who was Born before it. And ſo that conteſt came to be decided by Arms, and a bloody Battle being fought, Victory alone adjudged the Kingdom to *Otho*. The ſame caſe was diſputed before *Darius* the Second, who having two Sons by his Wife *Pariſatis*, *Artaxerxes* who was alſo called *Arſaces*, and *Cyrus the Younger*. *Pariſatis* favouring her younger Son *Cyrus*, us'd her Intereſt with *Darius* to engage him to declare *Cyrus* his Succeſſor, becauſe he was Born after his Father came to the Kingdom, whereas *Artaxerxes* was Born before his Reign commenced, but ſhe did not obtain her requeſt; for *Artaxerxes* was declar'd King and Succeſſor in the Empire, and *Cyrus* having recourſe to Arms, was kill'd in the War.

The Infanta's *pretenſions, as being deſcended by a Daughter, excluded by the deſcendants from a Son of the* Conquerour.

But to return now to the *Infanta*, the Arch-Duke's Wife, with reſpect to her pretenſion, as being ſaid to be deſcended of the *Conquerour*'s Eldeſt Daughter, all that right is Excluded by the deſcendants from any of the *Conquerour*'s Sons. For as in Succeſſion the Son is always preferr'd to the Daughter, and more Honourable than ſhe is, ſo his Off-ſpring are always to inherit before thoſe who are deſcended of her. In the mean while I can never believe that the *Engliſh* would have taken *Stephen* for their King, who was the ſecond Daughter's Son, if there had been Iſſue remaining

by

by the Eldeſt Daughter, which *Doleman* himſelf Confeſſes in another place.

Doleman's ſecond pretence for this *Infanta*, is by *Eleanor* the eldeſt Daughter of *Henry* II. Her Daughter and Heir was *Blanche* who was married to *Lewis* VIII. King of *France*, and this pretence is grounded on the ſame Principles of right, which he made uſe of in favour of the Lady *Conſtance*, and there was no long time between them. *The ſecond pretence of the Infanta of Spain.*

Our Adverſary's argument then is this. King *John* by the murther of his Nephew *Arthur*, and of his Neice *Eleanor*, the Children of his Brother *Godfrey*, rendred himſelf unworthy of the Kingdom, and conſequently by that deed he depriv'd his own Poſterity of the Succeſſion. To this may be anſwer'd that if the Annals and deeds, of all the Kings who have reign'd in *Europe*, were ſtrictly canvaſs'd, few of them wou'd be found clear of ſome crime or another, for which a private man wou'd forfeit his Fief; But Kingdoms have none to whom they may accrue. For when an Eſtate is taken away from any perſon, who for his crimes has forfeited it, and it's eſcheated, that Eſtate does not go to the next of his Kindred, but only to the Exchequer; and where there is no Exchequer, no Superiour againſt whom the fault is committed, there is none to whom the forfeit or penalty of the crime can belong. God only is the avenger of the crime, who in his own time will ſhew himſelf a juſt puniſher of wickedneſs. This we may learn from that of *David*, *Againſt thee, thee only have I ſinned*. Pſal 51. Not but that he had offended againſt *Uriah*, and even againſt all the people, but that God only is judge and avenger of the Sins of Kings, and we muſt delay untill he execute Judgment. *Whether a Prince who is guilty of a nefarious crime loſes his own Kingdom therefore.*

As for King *John* the matter of fact is rather ſuſpected than evident, that he murder'd his Nephew *Arthur*, notwithſtanding that the Annals of *France* affirm it for certain; that ſo they might ſeem to have juſt cauſe, for taking from *John* all the Provinces which belong'd to him on their ſide of the *Britiſh* Ocean. And truly theſe tranſmarine Provinces ſeem'd, upon the account of the murther of *Arthur*, to have been juſtly forfeited, and ſo to have accrued to the Finances of *France*, but the caſe was different as to the Kingdom of *England*, as to which, as I ſaid, he had no Superiour, againſt whom he could offend, or to whom the penalty of what was criminal could accrue. Neither is that true which he puts upon *Stow* an *Engliſh* Hiſtorian, to wit that *John* murther'd *Arthur* with his own hands; for *Stow* affirms no ſuch thing, but only that the *French* pretended that he did it. Some hiſtorians tell us, that *Arthur* died in Priſon; and others, that endeavouring to get over the Walls, he fell into the *Seine* and was drown'd. But they are at an uncertainty as to the manner of his death. But howſoever it was, 'twas never as yet allow'd of in Law that the Penalty of forfeiture ſhould redound to the neareſt of the Kindred. *Whether John was the Author of the murther of Arthur.*

I gave another reaſon alſo, that the ſame *John* receiv'd abſolution from the Pope, by his Legate *Pandulphus*, for all his ſins and even particularly for the moſt horrid of them, before the birth of his Son *Henry*, and had a plenary forgiveneſs granted him for all his former Sins, and had all the Sentences, which had paſs'd againſt him in the Courts of the *Romiſh Church*, taken of, and was fully reſtor'd to the Church's peace, and the King of *France* was excommunicated for his attempt of invading *England*. Wherefore all Sins can be pardon'd by the Pope, as *Doleman* muſt own,

let this paſs among the reſt. Neither is he a true *Roman Catholick* who after Penitence, and ſuch ſolemn Abſolutions, dares object that crime to King *John*; or who brings any argument againſt the ſaid *John* or his Poſterity from it. And unleſs the *Infanta Iſabella* forbears to inſiſt on that right, ſhe may be affraid, leaſt ſhe incurr the diſpleaſure and reſentments of the Apoſtles St. *Peter* and St. *Paul*, to uſe their own expreſſion: And eſpecially leſt ſhe feel that *fulmen* of Papal Excommunication, which is no contemptible dart, for putting a ſtop to ſuch diſorders. But if either ſhe her ſelf, or her Advocate *Doleman*, will allow that the Pope can do every thing, and that, that Plenary Indulgence of his was effectual, 'tis in vain for them, to endeavour to uſurp a right, from a crime that was forgiven. For that Indulgence was granted not only for the crime, but alſo a diſcharge of or releaſe from the penalty, as is clear at this day from the Words of it, and after that all the people renew'd their Oaths of Allegiance to him.

Moreover ſeeing nature forbids that the Sins of the Fathers ſhou'd hurt the Children, for as Scripture ſaith, *The Son ſhall not bear the iniquity of the Father*. And when *Amaziah* had put to death the murtherers of his Father *Joaſh*, 'tis added in the text, *but he ſlew not their Children, but did as it is written in the Law of* Moſes, *where the Lord Commanded, that the Children ſhall not die for the Father's Sins*. Who can complain of that injury, but the Lawful Heir of *Arthur*? And who can ſay that he had any true Heir beſides *Henry* III. the Son of *John*? Where is any other to be found? For *Godfrey* could have no other Heir, nor by conſequence his only Son *Arthur*. As for *Aquitain* I ſhou'd make no objection, if the King of *France* would quit it, and *Iſabella* might Succeed to that Province; But he has his own reaſons, and he has alſo ſome things more forcible than his reaſons are, by which he excludes that Succeſſion as often as he pleaſes.

Deut. xxiv. 2 Chron. xxv.

The Crimes of Parents do not hinder their Children in the Succeſſion of Kingdoms.

Nothing is more ſilly than what he ſays of *Arthur*'s Laſt will, that the *Infanta* derives a right to the Succeſſion from it, as if a Pupil could diſpoſe of a Kingdom or inheritance by his Laſt will.

But to return to the Crime, if it was one, that *Henry* I. is charged with, and the Crimes of King *John*: I ſay it would be hard, to take from the Children of Kings their right of Succeſſion, for the faults of their Fathers who were Soveraigns. For what Kingdom is there in *Europe* at this day, which was not either acquired or conſtituted by ſome crime, or ſometimes broken and interrupted with ſome Crime? Not the race of the Kings of *France* themſelves. For to ſay nothing of *Pepin* and *Hugh Capet*, *Lewis* XI. ſtain'd himſelf with the Blood, not of his Brother's Son, but of his own Brother *Charles* Duke of *Normandy*. Neither was the *Series* or race of *Bretaigne* it ſelf at that very time without its own groſs crimes. For, as *Doleman* himſelf acknowledges, *Conan* Duke of *Bretaigne* was deſtroy'd by the *Couquerour* by a baſe crime, for he caus'd him to be poiſon'd, and *Howel* by the *Conquerour*'s aſſiſtance got the Dukedom. The *Conquerour* had married his Daughter *Conſtance* to *Allain* the Son of that *Howel*, and of that Marriage were *Conan* and *Bertha* born; But *Allain* the Father having renounc'd and abdicated his Son *Conan*, left *Bertha* who was Married to Count *Eudo*, heir of his principality, of whom the race of the Dukes of *Bretaigne* by a continual *Series* did Succeed untill the Heireſs of that Dutchy was Married to *Charles* VIII. King of *France*. Here then I wou'd know what right cou'd the Heirs of

Bertha

Bertha have, while *Conan* her own Brother was alive? Was that Dutchy to be taken away from the Posterity of *Bertha*, because she had got it wickedly, and by abdicating the true heir of it? But if *Doleman* grants this, he not only excludes his own *Isabella* from the Succession of *England*, but also the *French* King from the Succession of *Bretaigne*. Let the reason therefore which held good for *Bertha*, retain it's force for *Henry*. Nay our *Henry* has greatly the advantage of *Bertha*, as being preferable in Succession by the Laws of God, Nature and Nations to his Sister, whereas *Bertha* could never by any right, rules, nor colour of Law, come in competition with her Brother *Conan*. But she ought to be very free from all faults, who charges others with them. And *Solomon* himself commanded his Elder Brother *Adonijah* to be put to death. And *Jehoram* not only slew his own Brothers which were many, but also many Princes of *Juda*, and yet neither one nor the other of those were dethroned for these crimes.

1 King ii. 2 Chron. xxi.

In *Spain Alphonsus* sirnam'd *the Great* condemn'd not his Nephew, but his four Brothers, to wit, *Froila*, *Nunius*, *Veremundus* and *Odoarus*, after he had caus'd their eyes to be pulled out, to perpetual imprisonment [c]. Another *Alphonsus* King of *Castile* was suspected of the murther of his Brother *Sancius*, and having his other Brother *Garcias* shut up in close Prison, took care to have him put to death [d]. So did *Henry* IV. whom *Doleman* commends highly murther, his Sovereign and Cousin German King *Richard* II. Nay as the Lawyers assert, if it be the Statute of any Country, that a Son who kills his Father be excluded from Succeeding to his Father, yet the Grandson by that very Parricide, unless he was privy or accessary to the murther, Succeeds to the Grandfather. *Alexander* the Lawyer disputes this question [e]. And therefore whatever the Father's crime was, tho' it might exclude the Father from the Succession, yet it never could hurt *Henry* III. nor hinder him from the Succession to his Grandfather *Henry* II. Neither is this which I plead for disagreeable to the word of God. So this second pretence of the Arch-Dutchess is destroy'd; seeing there can be no place for *Eleanor* the Sister, so long as any of the Posterity of her Brother *John* do's remain.

[c] Marian. cap. 1. lib. 7.

[d] Marian. cap. 18. lib. 9.

[e] Consil. 136. consilior. lib. 7.

The third pretence that's brought by *Doleman* in favour of the *Infanta Isabella*, is, as they say, the actual deposition of King *John* and the actual election of *Lewis* Prince of *France* by the Barons and States of the Kingdom. But 'tis most certain that *John*'s death intervening they soon repented of what they had done. But first I ask *Doleman*, who gave the Barons, who only make one of the Estates of Parliament, that power, to depose Kings from their own Kingdoms, or to make a Successory or Hereditary Kingdom, to be Elective? But supposing them to have had a power of deposing Kings, it must also be allow'd that when they repented of what they did in the exercise of the deposing part of their power, they had also power of restoring Kings for just reasons. That power has more goodness join'd with it, which exerts it's self rather in building up than in pulling down, and a dwarf, that was never able to carry one stone towards the building of a City, is yet capable to destroy it, and to lay it in ashes. 'Tis only the Devil and Witches who have power to hurt and are uncapable of shewing kindness or doing good. Now supposing these Barons had a power of restoring as much at least as of deposing; For reason can never allow,

The third pretence of the Infanta *from the deposition of* K. John *examin'd.*

allow, that they who can deprive a King cannot alſo reſtore him, according to that maxime, than which nothing is more natural, *unumquodque eodem modo ſolvitur quo colligatum eſt: A thing is undone by the ſame authority by which it's eſtabliſhed.* Then, I ſay, that their laſt deed that of reſtoring is always to be minded, and it quite invalidates the former.

But prethee, *Doleman*, who were the Barons? Who were the *Eſtates*, who conſented to this depoſition and Election? If thou ſay'ſt that they all conſented thou art deceiv'd and deceiveſt others. For *William Collingham* a Baron of *Suſſex* oppos'd himſelf to *Lewis* marching with a thouſand men, and ſometimes retreating, ſometimes attacking him, did thereby leſſen his forces as much as ever he could. But it ſeems that thou, makeſt a Conſpiracy of ſome Barons, and their conſent, equivalent to the whole Eſtate of the *Barons* and the whole Eſtate of the *Prelates* and People, and the conſent of them all. But nothing can be more unreaſonable than to aſcribe that to the whole Eſtates of the Realm, which proceeded only from a certain faction of the *Barons*, as if we ſhould make any part or multitude of the people to be the whole *Commonwealth*. But were an exact liſt taken of the *Barons* of that faction, upon compariſon between them and ſuch others of that Eſtate, who diſſented from them, or at leaſt of ſuch as did not conſent, the former would not be found to be near ſo numerous as the latter. And if the hiſtory be fairly conſidered, we ſhall find that they had a purpoſe only without effect. For tho' there were writings for rejecting *John*, and chuſing *Lewis Dauphine* of *France* for their King, yet that affair was never finiſh'd, nor tranſacted by any compleat deed; Their votes were not taken, the Election was never made, nor the Coronation ſolemniz'd; neither was the conſent of the people ask'd, whether they would chuſe or receive *Lewis Dauphin* of *France* for their King; nor were the mutual Oaths, which *Doleman* reckons neceſſary to the very being of a King, interpos'd; no *Parliament* was either lawfully called or held; and the Authors of that innovation repented of what they had done, even before they had fully accompliſh'd it; and the very ſame *Barons* who had invited in *Lewis* drove him out of the Kingdom.

Holinſhed *in the life of* John.

'Twas not the Eſtates of the Realm but only a Faction of the Barons which depos'd King John.

The Dauphine was afterwards driven out by them who invited him in.

Moreover *Iſabella* cannot pretend to any more right to be deriv'd to her from this *Lewis* or his election, than he himſelf had: But *Lewis* in a treaty with King *Henry* the Son of *John*, renounced all his right to *England* in favour of the ſaid *Henry*, as *Matthew Paris*, and *Holinſhed* teſtify. Wherefore this pretence, that's taken from any right deriv'd from *Lewis*, is groundleſs, and cou'd never be trump'd up by any but the Jeſuites. But they muſt reaſon after this manner, who have no better arguments for the right of an affair which they are concern'd above all things to promote.

He alſo renounced all his pretenſions to England.

As for *Odo* Earl of *Paris* and *Hugh Capet*, the laſt never alledged the Election of *Odo*, for his title, nor could he do it. For *Odo* was only choſen Tutor, and had the adminiſtration of the Kingdom of *France* only as ſuch, but he was forc'd to quit his Guardianſhip by his Pupil's Brothers, *Lewis* and *Carloman*, tho they were only Baſtards, and afterwards by *Charles* the Emperour ſirnam'd the *Fat*, who was the Pupil's Kinſman. At length when they were all dead, *Odo* was recalled to be Guardian, and when *Charles* the *Simple* attain'd to the twenty firſt year of his Age, *Odo* reſign'd the Government to him.

Odo *was only Guardian and not King of* France.

Be-

Besides 'tis not pretended, that the Barons swore allegiance to the Lady *Blanche*, who notwithstanding was the true heir after *John* and his posterity; Neither did they swear fealty to *Lewis* himself, but promis'd only to assist him to their power, tho' he was a meer foreigner, and so could not claim any right to the Kingdom.

No allegiance sworn to the Lady Blanche.

But if the titles of Kings which once rightfully and lawfully belong'd to them, can never be prescribed to, but continue always valid and effectual, so as that the true heirs may lawfully seize the Kingdom and take possession of it, as oft as an occasion offers, it is certain that long before any of all these Sisters, nay before the *Conquerour* himself, the right and title to the Kingdom was devolv'd to the King of *Scots* by that marriage with *Margaret* the Sister of *Edgar Etheling*; or if a more ancient title be more taking, then he comes in as the true heir of *Aurelius Ambrosius*, who was King of *Britain*, before it came to be under the power of the *English Saxons*. And *Doleman* adds by the bye, *that the titles and interests to Kingdoms, rightly gotten, do never die but remain ever for the posterity to effectuate when they can.*

The King of Scot's *Title is the best, even according to* Doleman's *Concession, that Prescription ought not to take place against Right.*

Part 2. C. 7. p. 222.

The fourth pretence of the right that the *Infanta Isabella* takes upon her is, deriv'd from *Beatrix* Daughter of *Henry* III. whose Sons *Edward* and *Edmund*, as *Doleman* says, were the Heads of the factions or opposite houses of *Lancaster* and *York*. Now tho' that assertion be false, because both these factions had their rise from the Sons or rather Grandsons of *Edward* III. one of them from the descendants of *Lionel* Duke of *Clarence*, and the other from *John* Duke of *Lancaster*; nevertheless shou'd we be so Complaisant as to grant it him, what can he inferr from thence? For while one that's descended from either of those Brothers remains, and there are some of their posterity remaining at this day, what place is left for *Beatrix*, or her *Aremorick Bretaigns*?

The Infanta's *fourth pretence by descent from* Henry iii. *expos'd.*

Part. 2. p. 222.

But says *Doleman*, *each of these houses hath often times been attainted and excluded*, &c. *and therefore their right devolves to the issue of their Sister which resteth in this Infanta.* Is it so then, that the forfeitures for crimes, and the fines of things condemn'd in *England*, belongs to the Duke of *Bretaigne*? Or that they should devolve to the neareſt of the Kindred, and not to the Crown, tho these fines and forfeitures be *inter Regalia*? I have already prov'd that the Royal Blood cannot be stain'd with these attainders; and that no heir can be excluded from his Succession of the Crown, because his Father or his Grandfather was attainted or condemn'd for Treason: I need not repeat what I fully treated of before. For *Doleman* in his fourth Chapter Part II. while he was disputing hard upon that Question between the Houses of *York* and *Lancaster*, affirm'd that the House of *Lancaster* was never attainted of any such crime. But here he retracts, but then I think he is obliged to shew when the Chief of the Family of *Lancaster* was attainted. For *Henry* VI. was not attainted for Treason, but his title being tried and found to be naught in full Parliament, and he being overcome by the Duke of *York*, was shaken off for violating the treaty between him and *York*, which had been agreed upon by the interposition of the *Parliament* and confirm'd by it. And tho this *Henry* had been attainted, yet this attainder cou'd never hurt the Family of *York*. Finally tho' the Duke of *York*, had been also attainted, that could only prejudice himself for a time, and so far as he Succeeded to his Father; But the Crown came to him by the maternal line. The opposite faction when it was strongest always

Of the Attainder of both Houses.

took care to have the head of the other houſe, to which the right of Succeſſion did undoubtedly belong, attainted and condemn'd. But no ſooner did he who ſtood thus attainted by his rival recover ſtrength enough, but ſtraight by his power he diſannull'd and made void whatever had been done againſt himſelf, by force and arms. *Doleman* before took notice, that it was eaſy for the Prince to make the Eſtates of the Kingdom do what he pleas'd, much more to attaint the adverſe faction; which that he may the more freely do, he uſes to take care to get together ſuch only as he knows are of his own ſide.

He returns at length to that which before he had laid for a foundation, that is, that his Princeſs *Eugenia-Clara-Iſabella* is of the true ancient blood Royal of *England*, by all the three branches of the Lines, to wit by the Lady *Conſtance* eldeſt Daughter of the *Conquerour*, by *Eleonor* the Daughter of *Henry* II. and alſo by *Beatrix* the Daughter of *Henry* III. He thinks no doubt that all theſe pretences being put together may ſignify ſomething in a diſputable point, tho' not one of them ſingly has any thing of right or ſtrength in it. So that either I am deceiv'd, or elſe this *Infanta*'s pretences or claim will vaniſh into Smoak; ſeeing all theſe three rights which ſhe pretends to, proceed from three Siſters only, all whoſe Brothers left Children behind them. Nay the Off-ſpring of all which remain to this day as well of the Houſe of *Lancaſter* as of *York*; And 'tis not poſſible that the iſſue from a Daughter or a Siſter can be preferred in the Succeſſion of their anceſtors, before them who are deſcended of a Son or of a Brother. This is generally true by the Law of *England*, that a Woman cannot be a concurrent partaker or ſharer with a man in any Inheritance. Thus, the Father of both dying, the Daughter receives no part of the Inheritance, if both live, from her Brother, but the Brother is preferred to the whole Inheritance. The ſame rule is to be obſerv'd in their deſcendants, and their Children, ſo as that when their Parents if alive would have been preferred, the Children and Deſcendants of ſuch Parents ought always to be preferred, according to the right of Repreſentation, which muſt always be preſerv'd.

A general axiome of the Common Law of England.

It ruines all the Infanta's *pretenſions.*

And ſo much for the pretences or right of the *Infanta Iſabella*, who is now married to a Prince of the ſame Family; Neither are theſe advantages, which *Doleman* talks of, to be now hop'd for, *viz.* that by her Marriage many differences may be accommodated, breaches repair'd, hopes ſatisfied, and contentment given to many deſires. So that it's now plain enough what may be expected of her, and how incommodious that Marriage of hers might be for *England*, and to all *Engliſh* Subjects, ſhou'd ſhe Succeed to the Crown of *England*. What elſe could they look for, but that the King of *Spain* ſhould be receiv'd and acknowledg'd by them, for their Soveraign Lord. This is the deſign not only of this Jeſuite, but of all that Phariſaical Society, to make the King of *Spain* Monarch of all *Europe*; for they reckon that their antichriſtian Doctrines cannot be otherwiſe mantain'd, unleſs as they are for one Biſhop in Spirituals over the whole Catholick Church, they may alſo have one Monarch in Temporals, for the whole Chriſtian World. Tho' this *Doleman* has already made them of his own Seminary, who by his own procurement are maintain'd at *Sevil* by a publick allowance from the King of *Spain*, to ſwear fealty and Allegiance to this *Infanta Iſabella*, as their natural Soveraign; yet he knows well enough that the King of *Spain* can eaſily, when ever he pleaſes, tho' againſt her Will, if ſhe had

once

once got the Kingdom, force it out of her hands, or at least with her own consent, giving her some Dutchy or Province in Exchange for *England*.

CHAP. XV.

The Pretensions of the Line of Portugal *and* Castile *are examin'd and confuted, and the most serene King of* Scotland *prov'd to a demonstration, to be the chief Prince and Heir of both the Families, as well of* Lancaster *as of* York.

Whether the two titles of Castile *and* Portugal *meet in* Philip.

WE are come at length to the Lines of *Portugal* and *Castile*, to see if happily there be any Prince in either of these Houses, or any that has the Right of both, who can claim or pretend to any right in this Succession. *Doleman* asserts that both these Lines are mingled or run into one in *Philip* King of *Spain*, and that he is the one Heir of both these Lines. But in this he is grosly mistaken, as he is in the rest of his positions. For tho' I should agree with *Doleman*, as to the Kingdom of *Castile*, into which Family *Catharine* the Second Daughter of *John* Duke of *Lancaster* was Married, that *Philip* King of *Spain* was the true and Lawfull Heir and Successor of that Kingdom, yet I cannot consent to his being Lawfull Heir of *Portugal:* which Kingdom he took by Force and Arms, and to this day keeps it by no better right. Neither is it true what *Doleman* asserts, that that question between the Competitors for that Kingdom, to wit, *Philip* King of all the other Kingdoms of *Spain*, *Anthony* the Son of *Lewis* the Second Born of *Emmanuel*, and *Ranutio* Duke of *Parma*, and *John* Duke of *Braganza*, was agitated and decided, and the right adjudged to *Philip*. For tho' the King of *Spain*, whom they call the *most Catholick*, could obtain from his mercenary Lawyers whatever he had a mind to, and make them undertake or write what he pleas'd; yet that question was never decided whilst *Henry* the last King of *Portugal* was alive, nor was any one of these Competitors preferred before any other. For after the Death of the said *Henry* the whole affair continued upon the anvil undecided. But the King of *Spain* being the most powerful of all the Claimants, the rest were either easily defeated and driven out, or else durst not so much as open their Mouths for fear of him; He in the mean time by his Legate the Duke of *Albany* and who was also General of his Army, took the Kingdom of *Portugal* to himself by force of Arms; By this Duke of *Albany*, I say, who before that, had brought all the Principalites of the Lower *Germany*, which he had Wrested from the Empire, under the Tyranny of *Spain*.

The title to the Kingdom of Portugal *was not discuss'd in the life time of their King* Henry.

But

But tho' that were true, which *Doleman* raſhly aſſerts, that the Kingdom had been adjudged to *Philip*; Yet the queſtion here is not about a Succeſſor of the Kingdom of *Portugal*, but of *England*, and we are to Search out, who it is that by the Law of *England* is the Lawfull Heir and Succeſſor of that Kingdom. But to come to ſet forth this Line of *Portugal*, there ſeems not to be any queſtion almoſt of that Succeſſion, untill it come to King *Emmannuel*, and perhaps I ſhall not agree with *Doleman*, in his account of the Children of King *Emmanuel*. For he had by his firſt Wife *Iſabella* Eldeſt Daughter of King *Ferdinand*, one Son named *Michael*, who Died in his Infancy. By *Mary* his Second Wife, who was Siſter of the ſaid *Iſabella* and Daughter of *Ferdinand*, he had *John* his firſt Born, *Lewis* and *Edward*, and beſides theſe *Alphonſus* and *Henry* who were Cardinals, the Latter of which after the Death of *Sebaſtian* was alſo declared King; For the Pope diveſted him of Sacred Orders or rather deſecrated him; but I paſs by theſe two; Seeing they left no Children behind them, as alſo *Lewis*, who tho he had a Son *Don Antonio*, who for ſome time conteſted with *Philip* of *Spain* for the Kingdom of *Portugal*; yet howſoever I cannot ſatisfy my ſelf concerning his Birth, but ſay what he will for himſelf, he ſtill appears to me to be a Baſtard.

The Offſpring of Emmanuel *King of* Portugal.

There remain then only two Sons of *Emmanuel* of whom there were Children and deſcendants, to wit, *John* the Eldeſt, who Succeeded his Father in the Kingdom, and who begot *John* Prince of *Portugal*, but he died before his Father, and left one Son *Don Sebaſtian*, who by the right of repreſentation did Succeed to his Grand-Father King *John*, which *Doleman* according to his wonted candor takes no notice of. He being Killed in the War that he made upon the Moors, the whole progeny of the Eldeſt Son *John* was extinguiſh'd. *Henry* who of a Cardinal was made King reign'd for ſome time, and in his Reign the Buſineſs of the Legitimation of *Don Antonio*, the Son of *Lewis*, the Brother of King *John* was diſcuſs'd. And this *Antonio* left no Heir of his own Body. So there is none remaining who are deſcended of theſe two Sons of King *Emmanuel*. *Edward* the Third Son of King *Emmanuel*, who, the two former having fail'd, had the right of primogeniture, had two Daughters by *Iſabella* Daughter of the Duke of *Braganza*, to wit, *Mary* and *Catharine*. I paſs by *Catharine* the Younger Siſter, who was Married again into the Family of *Braganza*; Seeing neither ſhe, nor any deſcended of her, can pretend to any right to a Kingdom which cannot be divided, as long as any Children or deſcendants from the Eldeſt Siſter do remain. *Mary* the Eldeſt Daughter of *Edward*, was Married to *Alexander Farneſe* Duke of *Parma*, by which Marriage there were two Sons, to wit, *Ranutio* and *Edward*, the latter was made a Cardinal, and the Eldeſt Succeeded his Father in the Dutchy, and *Alexander* himſelf the Father who was made Governour of *Flanders* by the King of *Spain*, gave the greateſt proofs of his Fidelity, Conduct and Bravery, which perhaps haſtened his death. And this is the Series of *Edward*'s Children, who alone of all King *Emmanuel*'s Sons left Children behind him.

We come now to the Daughters of King *Emmanuel*, who were two, to wit *Iſabella* who was married to the Emperour *Charles* V. of which marriage is *Philip* II. and from him, *Philip* III. the preſent King of *Spain*; and *Beatrix* the Dutcheſs of *Savoy*, of her was *Emmanuel Philibert* born, who left a Son called *Charles Emmanuel* the preſent Duke of *Savoy*. And this

this is the iſſue of theſe two Daughters. And ſo all the diſpute about the Succeſſion to the Kingdom of *Portugal* is between theſe two Daughters of King *Emmanuel*, and his Son *Edward*, and ſuch as are deſcended from them. Or rather the Controverſy lies, between the Son of *Iſabella* the eldeſt Siſter, (for the Duke of *Savoy* knowing that he can make nothing of it, does not ſo much as pretend to that Succeſſion) and the Off-ſpring of *Edward* who was the eldeſt Son.

If this matter was decided upon a Fair and Lawful trial, either by the Laws and Statutes of *England*, nay of all *Britain*, or even of all *Europe*, unleſs it be where the *Salick* Law takes place, no man, as I think, cou'd be ſo weak and void of all Judgment, who wou'd not preferr the Eldeſt Son or firſt born to the reſt of his Brothers, the Brothers to the Siſters, and the Children or deſcendants of the Brothers to the Children or thoſe deſcended of a Siſter in the matter of Succeſſion to an inheritance.

The Children of Sons are always to be preferred to the Children of Daughters in Succeſſion of the Grandfather.

And in a queſtion about the Succeſſion of the Crown of *England*, the determination ought wholly to be according to the Laws and Cuſtom of *England*. From whence it follows that as the Daughter is no ſharer with the Brother in Succeeding to the inheritance of the Father, ſo neither is the Siſter with her Brother, and conſequently neither are they who deſcended from the Daughter, partners with thoſe who are the Off-Spring of the Brother. But as the Son or the Brother have the preference to the Daughter and the Siſter, ſo likewiſe the iſſue of the Son or the Brother are to be prefered to all whatſoever deſcendants of the Daughter or Siſter forever.

But here *Doleman* conjures up ſome more ſeeming difficulties, and invents pretences for the King of *Spain*. For, ſays he, by the judgment of the Lawyers *Philip* was preferred; becauſe he was two degrees only remov'd from the Stock, and was nearer alſo by one degree in propinquity of Blood to the deceas'd King *Sebaſtian*, and therefore was judicially (which yet was never done) preferr'd; As if the diſtance or remove of that degree, had not been ſupplied even by the Laws of *Spain* from the right of Repreſentation. For by the right of Repreſentation the Duke of *Parma* was in the ſame degree and place of his Grand-Father *Edward*, and *Philip* in the place of his Mother *Iſabella* only. But no man but a meer Sophiſter will deny that *Edward* himſelf had the preference of *Iſabella* in the Succeſſion of that Kingdom.

As for what *Doleman* ſays, that *Mary* Daughter of the Duke of *Braganza*, and Mother of the Duke of *Parma*, had ſhe been alive ſhould have been preferred, as being of a Male deſcent before King *Philip*, is meer Trifling. For if ſhe (had ſhe been then Alive) ought to have been preferred to *Philip*, undoubtedly the right was in her perſon; Which right by her Death paſſed not to *Philip*, who cou'd in no wiſe be her Heir, but to her Son the Duke of *Parma*, and whatever right ſhe had while alive, the ſame right remains ſtill with her Son. But this man's Fooliſh Scribling is ſurpriſing; For he counterfeits, Actors, Criminals, Judge, Judgment, and laſtly the Sentence or Decree of the Court, which never was deviſed, but only in his own Diſtempered or ill Natured Brain. Whence the conſequence is eaſy, that neither by the Laws of *Portugal* nor by the Laws of *England*, which are obſerv'd in the Succeſſion of the Crown, *Philip*, but the Duke of *Parma* was Lawful and true Heir of the Kingdom of *Portugal*; and ſo *Philip* has nothing to

Philip ii. *and* iii. *had no right to the Kingdom of* Portugal.

to do with the Line of *Portugal*, which deriv'd from *Philippa* the Eldeſt Daughter of *John* of *Ghent*; ſeeing he is not chief nor Heir of that Line, but the Duke of *Parma* alone is.

The pretences which Doleman *makes for the Line of* Caſtile, *diſproved.*

As for the Line of *Caſtile*, which derives from *Catharine* the Second Daughter of the Duke of *Lancaſter*, who was Married to *Henry* the Son of *John* King of *Caſtile*, and of which Line *Philip* perhaps is the rightfull Heir, it is not to be much inſiſted on. For there can be no place for that Line, ſo long as there remains one of the *Portugal* Line, which is from *Philippa* the Daughter of the ſame *John* Duke of *Lancaſter*, by his firſt Wife. For there can be no room for the Children of the ſecond Daughter, in ſuch things as admit of no diviſion or cannot be ſhared, as long as there are Children from the eldeſt Daughter. Neither, tho' *Philip* poſſeſs'd himſelf of the Kingdom of *Portugal* violently by force and arms, can we ſay that he did it Lawfully; ſeeing right was plainly againſt him. Nor if he was Lawful King of *Portugal* will it follow, that by the ſame Reaſon, he is to be Lawful King of *England*, ſeeing each of thoſe Kingdoms is ruled and govern'd according to it's own conſtitution and by it's particular reſpective Laws. And before, *Doleman* did not ſtick to aſſert, that tho' another was now King of *France*, and that the *Infanta Iſabella*, was by the Salick Law excluded from that Kingdom, nevertheleſs ſhe might Succeed to the Dutchies of *Aquitain*, *Bretaigne* and *Anjou* ſeeing the Laws concerning the Succeſſion to the Kingdom of *France*, were different from the Laws of Succeſſion in theſe Provinces.

The pretences of the Line of Portugal *to the Succeſſion of* England, *examin'd.*

The Duke of *Parma* is the only Competitor whoſe Title is as yet to be examin'd; For, as I ſaid, he is the only Heir of the Line of *Portugal*, which took its riſe from *Philippa* the eldeſt Daughter of the Duke of *Lancaſter*. *Doleman* took upon him before to aſſert the title and right of this *Philippa* to the Crown of *England*, and by many Ways and Arguments preferr'd it to the title of the Houſe of *York*; That ſo having laid that as a foundation, to wit, that the Title of the Family of *Lancaſter* is by right better than that of the houſe of *York*, he may by another conſequence inferr, that the headſhip of the Family of *Lancaſter*, and conſequently the Succeſſion, to all the rights and eſtates thereunto belonging, remains in the poſterity of *Philippa*, who was the true heir of that Family, and not in *Henry* VII, who, as he affirms, had no right in that Family; But the whole Succeſſion of the Family of *Portugal* does now appertain to *Philip* King of *Spain*, and therefore he pretends that *Philip* is the true Heir and Succeſſor of *England*, as being the head or chief of the Family of *Lancaſter* or at leaſt the Duke of *Parma*, whom, I freely own, to be before the King of *Spain*, if *Philippa* had any right or title to that Succeſſion.

We have oftner than once already overthrown this objection, when we clearly made appear, that the undoubted right of the Crown of *England* appertain'd, not to the Children of *John* of *Gaunt* Duke of *Lancaſter*, who was only the Third Son of King *Edward* III. but to the (Daughter (who alſo was called *Philippa*) of *Lionel* Duke of *Clarence*, which Daughter was married to *Edmund Mortimer* Earl of *March*: And as the Duke of *Clarence* without all controverſy, was preferable in the Succeſſion of his Father before the Duke of *Lancaſter*, ſo were his Children and all deſcended of him, to be preferred to *Lancaſter*, and to all his Poſterity.

By

By that marriage of the Earl of *March* and *Philippa* there was a Son named *Roger Mortimer*, who also left Children *Edmund* and *Anna*, *Anna* was married to *Richard* the second Son of the Duke of *York*, and who was Earl of *Cambridge*, and when *Edmund Mortimer* died not leaving any Children to Succeed him, the right of Succession devolv'd to *Anna*, Her Son *Richard* Succeeded also to his Uncle the Duke of *York* (who was killed in battle by the *French*) in the Dutchy of *York*. And thus the title of the *Mortimers* which was unquestionably a most rightful Title of Succession, was derived from the *Mortimers* to the Family of *York*, and was afterwards called the right of the House of *York*, a right that was incomparably better and preferable to all the rights that the *Lancastrians* could ever pretend to. But of this right enough has been said already.

The Line of Mortimer *or* York.

But that the Candid Reader may be able to satisfie himself in every point of this Controversy, and that nothing of *Doleman*'s Sophisms may remain unanswer'd; Let us enquire also, whether *Henry* VII was the head of the Family of *Lancaster*, in case that Family had any right, or whether those who are descended from *Philippa* Daughter of *Lancaster*, and *Blanche* her eldest Daughter be before him? That it may evidently appear also that the King of *Scotland* is the sole Heir even of the right of the House of *Lancaster*. And consequently he is without all controversy the head and chief Prince of both Families.

Of Henry vii's *being the chief Prince of the House of* Lancaster.

For clearing of these things I shall add one rule concerning the Succession, from *Ranulphus* de *Glanvilla* Chief Justice of *England*, who was truly a great man. His words are these, [a] In case any man has had several Wives, and by each Wife one or more Daughters, and yet by his last Wife has one Son, that Son alone shall obtain the inheritance of his Father; Because a Daughter cannot be a sharer in any inheritance. These are the words of the *English* Law. But the Duke of *Lancaster* called *John* of *Gaunt*, had three Wives, to wit, *Blanche* Daughter of the Earl of *Lancaster*, and in her right he did Succeed to the Earldom of *Lancaster*. Of that Marriage were born *Henry* Duke of *Hertford* Earl of *Derby*, *Leicester* and *Lincoln*, (who Succeeded to his Father in the Dutchy of *Lancaster*, and who wrested the Kingdom out of the hands of *Richard* II,) and *Philippa*, who was given in Marriage to the King of *Portugal*; 'tis not necessary to mention the other Children of that Marriage, seeing they left no issue. Of *Henry* who was called the fourth of that name, was his Son *Henry* V. And of him *Henry* VI. And again of *Henry* VI. *Edward* the Prince who being taken in War, was killed by *Richard* Duke of *Glouceſter*; And so the whole Male Off-Spring of *John* Duke of *Lancaster*, by his Wife *Blanche* fail'd, a progeny yet remaining by *Philippa* who was a Daughter of that Marriage. That Duke of *Lancaster* took for his second Wife *Constance* who was the only Daughter and Heir of the King of *Castile*, and *Peter* being killed by his Brother upon that account, the Duke of *Lancaster* took the title of King of *Castile*, and demanded that Kingdom, untill his Eldest Daughter *Catharine* was married to *Henry*, the Eldest Son of *John* King of *Castile*, and so that affair was ended by a treaty. King *Philip* of *Spain* is descended of that Marriage, by which descent he has that undoubted right to the Kingdom of *Castile*, which belonged to *Catharine*, who was true heir of it. The Duke of *Lancaster* for his third Wife had

[a] L. 3. lib. de legibus Anglorum.

Catharine

Catharine Swinford, by whom he had three Sons, to wit, *Thomas* firſt Earl and afterwards Marqueſs of *Dorcheſter*, and *Henry*, ſirnam'd the *Rich*, Biſhop of *Wincheſter* and Cardinal, but I ſhall take no farther notice of them, ſeeing they left no iſſue of their own Bodies. His third Son was *John*. So by the rule given by the aboveſaid *Ranulphus*, and by the Law of *England*, this Son by the third and laſt Wife of the Duke of *Lancaſter*, is heir and chief of that houſe. *Lancaſter* indeed when he had reſolv'd upon a Marriage with the King of *Caſtile*'s Daughter, gave this ſame *Catharine* upon account of their former familiarity, in Marriage to one *John Swinford* an *Engliſh* Officer, whence ſhe was called *Catharine Swinford*, neither can *Doleman* deny this.

Three objections againſt the Duke of Lancaſter's *progeny by his third Wife.*

But this Sophiſter oppoſes us, and endeavours to elude the force of this argument, and having no other evaſion, ſays that theſe Children were born, while *Conſtance* Wife to the Duke of *Lancaſter* was alive, and conſequently in Adultery. And tho' all theſe Children were afterwards legitimated by Act of *Parliament*; Yet he aſſerts that neither the King nor the *Parliament* could do that in prejudice of the Children of former Marriages, who had a *jus acquiſitum*, that is, a right already acquir'd, which could not be taken away by any Act of Parliament afterwards. Here we may take notice firſt, that *Doleman* makes no ſcruple to bring Acts of *Parliament* againſt us, if in any thing they ſeem to obſtruct our cauſe, or to undermine the right of the moſt Serene King of *Scotland*. But whenever by the Acts of *Parliament*, the right appears clearly to be on our ſide, then he leaves no ſtone unturn'd, but uſes his utmoſt endeavours to undermine the force and power of *Parliaments*. 'Tis eaſy, ſays he, to obtain any thing of the Kings, with the conſent of *Parliament*; And therefore no right can ariſe from any Statutes of *Parliament*. But yet no man in his right wits will deny, that the *Parliaments* have ſome Power and Authority in the affairs of private men. But to ſay no more of this, *Doleman* obviates this Legitimation three ways.

For firſt as to the Dutchy of *Lancaſter*, he affirms that none who were born of the ſecond or third Marriage could pretend any right to it; ſeeing *Blanche* the Daughter of the former Earl of *Lancaſter* was the ſole heir of that Eſtate, and therefore that Dutchy neceſſarily devolv'd upon the Children of that Marriage, and conſequently upon the Kings of *Portugal*, by that general rule of Law, *Materna Maternis* &c. that is, the inheritance which came by the Mother deſcends to the Children by that Mother, as if it had never been heard, that many Wives had renounc'd their own Inheritance, in favour of their Husbands, whom they dearly lov'd and of their heirs, holding themſelves contented with their own poſſeſſion of it during life.

* *The Duke of* Parma *has loſt all right to the Dutchy of* Lancaſter, *for not demanding the Inveſtiture of it in due time.*

But to ſhew how little this makes for the Duke of *Parma* or other pretenders, and how far they are remov'd from any claim to this *Dutchy*, 'Tis known that the Dutchy of *Lancaſter* is a Fief of *England*, and that no perſon has acknowledged the King of *England* for that Fief, or demanded Inveſtiture in it from the Superior, theſe two hundred years. So that Fief return'd to the Superiour; For if the Lord or Superiour has been in poſſeſſion of the Fief thirty years only, and the Vaſſal all that while does not demand the Inveſtiture, nor ſwears fealty, nor makes offer of Service to the Lord according to condition of his Fief, the Fief returns to the Lord. Nay *ex ſummo jure* in ſtrictneſs of Law,

if

if a Vassal abstains from demanding the Investiture one Year after the Death of his predecessor, he falls from his right of the Fief. For so great a contumacy and ingratitude in the Vassal, in not minding or acknowledging his Lord in the course of so many Years, deserves no less punishment, than is the loss of the Fief. Moreover, this vassal set upon his Lord in a Hostile manner with Arms, took from his Subjects their Goods, projected all Hostilities against his Sovereign, that he might by what means soever thrust him from his Kingdom, and thereby rendred himself unworthy of enjoying any Fief under him; which with his own Lordships he also vindicated to, or challenged for himself already *per manus injectionem*, violently at his own hand.

And for hostilities against his Superiour.

To these things may be added, that seeing the Duke of *Parma* is not a Sovereign independant Prince within himself, but whatever he possesses, he holds either of the Pope or of the King of *Spain*, and so is Liege man or Subject of one or t'other, or of them both, he is not to be suffer'd to demand a Fief that holds of another Prince, who has all the rights of Majesty or Sovereignty, or to be his Subject also. For it is a known Rule in the Feudal Law, *Nemo unus plurium Dominorum homo ligius esse potest*. That is, no one man can be the Liege man or Subject of many Lords. There is no Hazard from *Philip*, for he will never own himself a Subject to the Queen of *England* for the Dutchy of *Lancaster*, nor swear Allegiance as a vassal is obliged to do to the Crown of *England*. So there is nothing to be fear'd from him, supposing he had a right to that Dutchy.

He is uncapable of an inheritance in England *as being a vassal of other Princes.*

The Second Reason, by which *Doleman* endeavours to exclude this Legitimation even in the Succession of the Kingdom, is this: Because none can be Legitimated in prejudice of Children, which were Born before in Lawfull Wedlock, and take from them the right, which had been already acquir'd. But the Lady *Philippa* Queen of *Portugal*, who was the Duke of *Lancaster*'s Daughter by his first Marriage, had two Sons by her Husband the King of *Portugal*, *Don Alphonso* and *Edward*, who were born Six years before the Legitimation of the Children of the third marriage, and thereby they had *jus acquisitum*, which could not be taken away by any posterior Act of Parliament, without the consent of the Parties interested; And this, he says, is contain'd in diverse places of the Canon Law. And for this he brings an example which never happen'd, to wit, if *Henry* VIII had caus'd his own Bastard Son the Duke of *Richmond* to have been legitimated by the Parliament, (and what could not that King make his Parliaments do?) could such a deed have prejudiced his Lawful Children *Edward*, *Mary* and *Elizabeth*? No, says he, it could not, it wou'd not have held. Neither can any man legitimate his Bastards either begotten in Adultery, or simple Fornication only, so as thereby to prejudice the right of others. Neither can that legitimation by an after-marriage, be carried back any farther than to the beginning of that subsequent marriage, from whence the Children are Legitimated.

The second reason against the Legitimation of Lancaster's *Children by* Catharine Swinford.

I truly think that most of what is said here by my Adversary is true, tho' there are many who maintain Legitimation to be equal in Law to Adoption; many also give it the preference as a more favourable case; Because it has the *naturalia primordia*; or derives from natural beginnings. And yet in Arrogations and Adoptions, the person adopted succeeds, as do the natural Lawful born Children.

Baldus in L. si te parens. C. de suis & legitimis.

But I believe in Law there is difference in this between Sons and Daughters, ſeeing the reaſon is not alike in both. For Baſtards are more eaſily adopted to the prejudice of Daughters than of Sons; ſeeing Legitimation it ſelf took its riſe only from the want or decay of Male Iſſue to preſerve the name of the Family. For in Law the Condition of Females is many points much worſe than is that of Males a. Yet I know that it is eagerly diſputed among the Interpreters of the Law, If a King, after he has had Children by a Concubine, Marries a Wife, and has Children alſo by his Wife, and after her Death, Marries his Concubine, whether the former Children begotten in Concubinage or out of Wedlock, and who are Legitimated by the Subſequent Marriage, are to be preferred in the Primogeniture to them who were begotten afterward in Lawfull Marriage. *Felinus* b, *Hoſtienſis* and *Didacus Covarruvias* plead hard for the affirmative, the laſt of which ſays plainly, that the blemiſh of baſe Birth is purged, and that they are true and Lawfull Children, who are legitimated by a Subſequent Marriage; and that they ought to participate equally in all rights and privileges with the Lawful Born. Nevertheleſs I know that a part of the Sounder Interpreters of the Law maintain the Contrary. But I ſhall not inſiſt longer on this, nor on that, that Legitimation is not to look Back to the prejudice of a right that's already acquired. Only this I Affirm, that if the Duke of *Lancaſter*'s Marriage with *Catharine Swinford* had not been controverted, but had taken its beginning from the time only that it was Solemniz'd, his Son *John* ought to have Succeded, in all things which appertain'd to that Duke, as *Edward* VI. who was Born of a Third Marriage had the preference before *Mary* who was Born of the Firſt, and *Elizabeth* of the Second Marriage. Thus *Philip* who is now King of *Spain*, is preferr'd in the Succeſſion of the Father's Empire to his Siſter's, if his Father *Philip* had any Daughters by his firſt Marriage with the King of *Portugal*'s Daughter, and to all thoſe which he had by his Third Marriage with a Daughter of the King of *France*.

a L. in multis de reg. juris & gloſſa ibi cauſas numerat.

b Felinus in c. dſ. primogenitis. & Hoſtienſis ibid. & tanta qui filij ſunt legitimi.

* *A ſubſequent marriage Legitimates the Children born before the marriage.*

But ſeeing the Duke of *Lancaſter*'s third Marriage was from an Antecedent cauſe, and in Favour of the Children, which he had formerly in Concubinage by the ſame *Catharine*, we are firſt to ſee whether theſe Children could be Legitimated by the Subſequent Marriage, which I think no man will deny, unleſs he would declare War againſt Law. Secondly how far this Legitimation may be prejudicial to the Children of the former Marriages.

And for the firſt, ſeeing this Legitimation is altogether like to Arrogation or Adoption, by which any one acquires the privileges of Children, ſo one who is Legitimated is upon the ſame foot with Lawfull Children, in all things as to rights or privileges, and is reckon'd for a Son a. The Statute by which females are excluded by males, has place alſo in a Son who is Legitimated, as that he excludes alſo Women from the Succeſſion, as much as a Lawfull Son does b. But it has been ſaid already, that a Prince cannot Legitimate any perſon, in prejudice of the Lawfull born: Neither can he take away any right that's acquired to any body, *ſive in re ſive in ſpe*, as we uſe to ſpeak, that is, with relation to what he has either effectually or in proſpect. Theſe things I had ſaid before; But that Legitimation, which comes by a Subſequent Marriage is by very much ſtronger, than that which is done only by a King or any reſcript of a King; the laſt being only a ſort of diſpenſation with the Law,

a Baldus in L. 2. c. ſi quæ in fraudem creditorum quis quid in fraudem Patroni.

b Baldus in l. cum acutiſſimi de fidei commiſſis.

Law, but the firſt almoſt a pure reſtitution or reſtoring of ones birth from any blemiſh that attended it; and the Text it ſelf calls ſuch Lawfull Children [c]. And conſequently they ought to Succeed, as the Children Born of the third Marriage. For this poſterior Legitimation, looks Back alſo, and the Marriage is preſumed by Law to have been contracted from the beginning, and before the Birth of the Sons. At leaſt to avoid any imputation of being thought contentious, this Legitimacy gives them preference to the former Daughters, in ſuch things as are afterwards acquired, which in the time of the former Wives, were neither poſſeſs'd, nor hop'd for. Neither do I altogether in this diſagree with *Doleman*, that in a right that's already acquir'd, the Children of former marriages are not to be prejudiced. For in the right that's actually acquired the Caſe is more favourable than where the right is only to be acquired, and one is more eaſily excluded from the laſt than from an acquired Right.

[c] Tanta qui filii ſunt legitimi.

But the Succeſſion of the Crown at that time was not an acquired right, neither effectively nor in hope, nay not for Sixty years after that legitimation; And neither the Lady *Philippa* nor *Catharine* acquired that right, nor could they ſo much as hope for the Succeſſion. The reaſon is this, becauſe the Duke of *Lancaſter* by the ſame marriage with the firſt Wife, had a Son, who afterward having diſpoſſeſs'd *Richard* of the Kingdom, ſucceeded in it, and reign'd ten years, and there were three of the Name of *Henry*. *Henry* IV. had four Sons, and eſpecially *Henry* V. who after his Father reign'd nine years, and after him *Henry* VI. who had a Son *Edward* Prince of *Wales*, and in their perſons the poſſeſſion and hope alſo of poſſeſſing the Kingdom remain'd, during their lives or ſo long as they had any Iſſue, the Children of the Lady *Philippa* had nothing to hope for in relation to the Succeſſion of the Kingdom, much leſs was that Succeſſion an acquired right to them; neither did it belong to any of the Houſe of *Lancaſter*, if it was not after the death of the ſaid Prince *Edward*, who was killed by the Dukes of *Clarence* and *Glouceſter* in the year 1471. At which time none of the Family of *Lancaſter* was nearer to the deceas'd than *Henry* VII was. For unleſs this be allow'd, what is, or could be the effect of Legitimation? For one or the other of two things muſt neceſſarily follow, to wit, that Legitimation had no effect at all, or elſe it took place in ſuch things at leaſt as were to be acquired.

Objection.

But *Doleman* inſiſts farther, ſaying that the King of *Portugal* ought to have been preferred to *Henry* VII. becauſe the former was of the whole Blood, as he ſpeaks. For the *Engliſh* have a peculiar Law, or Right, which is, that the Brother cannot Succeed to his Brother unleſs he be of the whole Blood. And if they be of different Mothers, the Succeſſion of the Brother does not paſs to the Brother of half Blood; (For ſo we uſe to call the Sons, who have one common Father, but different Mothers) but the Succeſſion falls to the Uncle.

Anſwer.

To which I anſwer briefly, that this whole Blood is not minded in the Succeſſion of a Crown, but the Brother even of half Blood Succeeds his Brother, and is preferred to all the reſt in that Succeſſion, as I ſhew'd before in the Succeſſion of *Edward the Elder's* Children. And in the Succeſſion of *Henry* VIII. to whom *Edward* VI. firſt Succeeded, to him *Mary*, and to her again Queen *Elizabeth*, who were all of them of different Mothers. And ſo this dart recoils upon *Doleman* himſelf.

But

Objection. But theſe Children by *Catharine Swinford* could not be legitimated, ſays he, by the ſubſequent Marriage; becauſe they were begotten in Adultery. For *John* of *Gaunt* had at that time a Wife alive, to wit *Conſtance* Daughter of *Peter* King of *Caſtile*, and ſo his converſation with *Catharine* was Adulterous.

Anſwer. I anſwer that both natural reaſon and the Laws forbid us to make ſuch nice enquiries, or rake in the aſhes of perſons, who have been ſo long dead; eſpecially after they have been held and reputed Legitimate two hundred years together. This was thought a good reaſon by *Henry* the laſt King of *Portugal*, for declaring *Don Antonio* illegitimate or baſtardizing him, as *Doleman* himſelf bears witneſs; and there is a preſumption of Law for legitimation; Nay legitimation is a more favourable caſe than Marriage, becauſe many things do actually diſſolve Marriage, which do not deſtroy legitimation. Neither has any one of theſe Families for two Centuries, demanded any thing of the inheritance of the houſe of *Lancaſter*, either in jeſt or in earneſt; or ſo much as given the leaſt intimation by any one expreſſion that he would demand it, which the ſame *Henry* King of *Portugal* thought a ſufficient ground in rejecting *Don Antonio*, as *Doleman* ſays; Becauſe if *Don Antonio* had been legitimated, he might have oppos'd him, and pretended to the Succeſſion before him; Seeing *Lewis* the Father of *Antonio* was the Elder Brother of *Henry*, which yet he did not. But I wonder to ſee this Jeſuite arrive to this height of impudence, as not to be aſham'd to aſſert any thing, ſo as he may raiſe Scruples.

Holinſhed *in the life of* Edward iii.

The Duke of *Lancaſter* married *Conſtance* the Daughter of King *Peter*, in the forty ſixth year of the Reign of his Father *Edward* III. which was the year of our Lord 1373. He the ſaid Duke of *Lancaſter* married *Catharine Swinford* for Wife in the year 1393. But not being contented with that Legitimation by the Subſequent Marriage, tho' that was ſufficient enough, *Lancaſter* took care in the following year to have the three Children, which he had formerly by the ſaid *Catharine*, legitimated alſo by a Statute of the three Eſtates of Parliament. *Thomas* the Eldeſt of them was then a privy Councellour, and a member of that very Parliament (in which he was alſo made Earl of *Sommerſet*) and accuſed *Arundel* of high Treaſon, and undertook to prove his charge by Duel, which is not to be thought, that a Youth would have done. He muſt therefore have been a ſtout man, and above twenty four years of Age. For the Eſtates would not have allow'd ſuch things in a *Minor*. Now if it be moſt probable that he was at that time twenty four years of Age or more, his birth may be reckon'd to the time that interven'd between *Blanche* the firſt Wife of the Duke of *Lancaſter*, and his Second Marriage with *Conſtance*. And he married *Conſtance* in *Aquitain*, and liv'd there with her a year or two before he return'd into *England*, and after his return he was ſent back with an army into *France*, where he continued another year, and he ſpent the remainder of his life either in the Wars or in Embaſſies; All which time this *Catharine Swinford* liv'd in marriage with *John Swinford* an *Engliſh* Officer, to whom the Duke of *Lancaſter* had taken care that ſhe ſhou'd be married, when he himſelf had reſolv'd to marry the Lady *Conſtance*. Theſe things happen'd long before *Richard* II. was deſpoil'd of the Kingdom, and it's evident from the *Engliſh* hiſtory, that the Sons of that *Catharine* were then arriv'd to man's ſtate, and fit either for the Wars or for the Council. 'Tis cer-

The Children of John *of* Gaunt *by* Catharine Swinford *were born in the time that intervened between his firſt and ſecond Marriage.*

tain,

tain, that in the ninth year of *Henry* V. *Henry* who was the third and youngeſt Son by *Catharine*, and was commonly called the rich Cardinal and Biſhop of *Wincheſter*, lent his Nephew *Henry* by his Brother twenty thouſand Pounds ſterling, towards the expence of the War againſt the King of *France*; which evidently ſhews that he was then fifty years of Age or above: For men uſe not to acquire ſuch vaſt Riches before they arrive at thoſe Years. So it is nowiſe likely, that theſe Sons by *Catharine*, were begotten, while the Duke of *Lancaſter* was Married to *Conſtance*, but while *Catharine* who had been in *Blanche* his firſt Ladies Service, as the Hiſtory Teſtifies, was after *Blanche*'s Death kept by him, who was taken with her good Temper and Beauty, and did Bear theſe Sons to him in Concubinage, and before his Marriage with *Conſtance*. Can we think that the Eyes of all the *Engliſh*, were ſo ſhort Sighted, or that they all Labour'd under any worſe Diſtemper, ſo as to be ignorant, what Children were Born during that Marriage, and who were Born before it; Or that they had ſo little skill in Law, as to legitimate Children born in Adultery? Truly neither one nor the other is likely. But in the Nineteenth Year of King *Richard* II. all were adjudged capable of being promoted to honours, upon the account of the Subſequent Marriage. Are we to ſuppoſe that the Biſhop of *Ely*, who for his vertue and great Abilities was made Chancellour of the Kingdom by *Henry* VII. or the Duke of *Buckingham* knew not who was Heir of the Houſe of *Lancaſter*, notwithſtanding, that *Buckingham* himſelf was next after *Henry* VII. The Biſhop of *Ely* was indeed a great Favourer and defender of that ſame Family. But this whole Story is newly invented by *Doleman*, and deviſed meerly to make that Family Odious.

See the Conference between Buckingham *and the Biſhop of* Ely *in* Holinſhed *in the Life of* Richard iii.

Nevertheleſs I can prove from Law alſo, [even ſuppoſing this Story which is moſt falſe was true] that *Spurij* or ſuch as were begotten while their Father had a Wife alive, can be Legitimated by an Act of Parliament, and be made proper or capable to Succeed to an Inheritance, and that Kings can Legitimate ſuch, if they make uſe of that Derogatory clauſe, *Non obſtante quod Spurii eſſent*: That is, *Notwithſtanding their being Spurious or begotten in Adultery.* For in Law there is an expreſs text, *Si quis ex concubina liberos ſuſceperit, & eam in uxorem duxerit, filii in Concubinatu ſuſcepti fiunt ſui & Legitimi, & Succedunt tam ex teſtamento quam ab inteſtato, tam ſoli quam cum aliis.* That is, *If any man hath Children by his Concubine; and afterwards Marries her, the Sons which were begotten in Concubinage become their own Legitimated Children, and Succeed as well by a Laſt Will or Teſtament, as they do to them that die inteſtate, whether as ſole Heirs or in partnerſhip with others.* Neither are theſe things deliver'd only by *Baldus* and *Bartolus* or ſome other leſs conſiderable Doctors of the Law, but the moſt famous Emperours *Conſtantine* the *Great*, *Leo*, *Zeno*, and finally the moſt Religious Emperour *Juſtinian* have alſo confirmed it by their Edicts, which will always be in force [a]. For this Legitimation, as I ſaid, was brought in as a reſemblance of Adoptions, in which the adopted Son became as much his Son who adopted him, as the natural Son, and he who was born in Lawful Marriage, and Succeeded after the ſame manner as the natural born Son did. And the Text is plain, that the Pope can grant a Diſpenſation not only to natural Sons, but alſo to ſuch as have been begotten in Adultery with relation to all Lawful Secular deeds [b]. Neither were the *Romans* Strangers to this practice; For *Micipſa* King of *Numidia* adopted *Jugurtha* born by

[a] L. d. & l. cum quis & tot. tit. de naturalibus Liberis C. ei aut quibus modis Naturales efficiantur Legitimi.

[b] c. pervenerabilem qui filij ſunt Legitimi.

by a Concubine in the time of his Marriage, notwithſtanding that he had Lawful Iſſue by his Marriage. And *Baldus* tells us that he himſelf adviſed the ſame thing in this Caſe [c]. And indeed not only *Baldus*, but moſt others alſo of the chiefeſt and learnedſt Doctors of the Law maintain this our Opinion; ſuch as *Bartolus* [d], *Speculator* [e], *Angelus* [f], as alſo *Antonius de Roſellis*, *Martius Caretus Laudenſis*, and *Benedictus de Baccis*, who have all publiſhed their own ſeveral Treatiſes, concerning the Legitimation of Sons. But yet they ſtill qualify this Doctrine, ſo as that the Children by the former Marriage do not ſuffer in things already acquired, by that Legitimation, but in ſuch things as are to be acquired, and they put a conſiderable difference between Sons and Daughters, reckoning it no ſuch injury to prejudice theſe as thoſe. For as has been ſaid already, Adoption and Legitimation were for no other reaſon introduced, but only that the memory of the Family might remain in Male Heirs, and as much as poſſible become perpetual.

[c] Baldus in L. i. c. de ſumma Trinitate & fide Catholica, & in leg. eam quam c. de fidei & Commiſſis.

[d] In dicta L. c. de ſumma Trinitate.

[e] Speculator in titul. qui filij ſunt legitimi.

[f] Angelus Conſil. 121. quod incipit, viſo puncto.

To this may be added that in the Caſe of the Duke of *Lancaſter*'s Children by *Catharine Swinford*, it was not a ſimple Legitimation by the Subſequent Marriage, but it was alſo confirmed by the Statute and Authority of the King. A threefold Cord is not eaſily broken, and here there are theſe three moſt ſtrong bonds concurring, which put this affair beyond all Controverſy, to wit, the *Subſequent Marriage*, *the declared Will and Pleaſure of the King*, *and the Statute of the three Eſtates of Parliament*. Many other things may be alledged, in favour of the Legitimation of Children, notwithſtanding of their being procreated in Adultery, as the Concubine's ignorance of the Marriage, as *Catharine* might have pleaded in ſuch Marriages as were contracted beyond Sea in a Country vaſtly diſtant from *England*. But I forbear to inſiſt farther on a ſuperfluous confutation of my adverſaries arguments, leſt I ſhould thereby ſeem in ſome meaſure to acknowledge ſome ſort of force in them.

John of Gaunt's Children by Catharine Swinford were Legitimated, by the King's authority, Act of Parliament and ſubſequent Marriage.

But he himſelf, ought according to the common ſaying, to be free from all crimes, who is ready to declaim againſt the Faults of other men. A ſpurious birth is objected to the Children, which were begotten of that Marriage between the Duke of *Lancaſter* and *Catharine Swinford*; But who I pray, makes this objection? Why? ſays *Doleman*, the Princes of the Houſe of *Portugal* and *Caſtile*, and *Philip* who is now the Heir of both, in whom, as this Author ſays, the Lines of both thoſe houſes meet. Let us then examine this line of *Caſtile* firſt.

Henry King of *Caſtile*, of whom *Philip* is deſcended, was not only a Fratricide but was alſo born of a *Jewiſh* Mother, and was Legitimated by Pope *Urban* V. as all the *Spaniſh* Hiſtories, and even *Doleman* himſelf acknowledge; And he murther'd his own Brother King *Peter*, who was alſo his Sovereign Lord, in his own Tent, and deſtroy'd his other Brother *Tellius* by poiſon, if Fame do not groſly belye him. And in ſuch caſes, Violent ſuſpicions or preſumptions, when it's hard to bring direct proofs, *pro crimine ſunt* [a], are taken for good Evidence. Neither was *Conſtance* Daughter of King *Peter*, whom the Duke of *Lancaſter* married, and upon that account afterwards aſſumed the title of King of *Caſtile*, born in lawfull Wedlock, but was an Adulterous Baſtard. For her Father *Peter*, during the life of his Wife *Blanche* lived in Adultery with *Mary Padilla*, who was infamous for Witchcraft, and was believ'd to have enchanted him; By her he had two Daughters, *Conſtance* afterwards Wife to the Duke

The whole race of Caſtile is by adulterous Baſtards.

[a] Marian. c. 15. lib. 17. de Rebus Hiſpaniæ.

Duke of *Lancaster*, and *Isabella* who was married to the Duke of *York*, which Daughters were born to him in the time of his marriage with *Blanche* Daughter to the Duke of *Bourbon*. And thus *Constance* her self, in whose right by marriage the Duke of *Lancaster* claim'd the Kingdom of *Castile*, was spurious; neither could she transferr any right to the Kingdom of *Castile* to her Daughter *Catharine*, who was married to *Henry* the Son of *John* by that Marriage, and so the whole Series of *Castile* is affected with Adulterous Bastardy.

The whole race of Portugal *is also stain'd with Bastardy.*

And this base birth appears as evidently in the Line of *Portugal*; For *John* Grand-master of the order of *Avis*, who was King *Peter*'s Bastard Son, by *Theresia Laurentia*, was after the death of his Brother *Ferdinando* made King of *Portugal*, and married *Philippa* Daughter of the Duke of *Lancaster*. But *Beatrix*, says *Doleman*, Daughter of *Ferdinand* King of *Portugal* and Wife of *Henry* King of *Castile*, was the true heir of the Kingdom. Not at all, say I, for both she and he were Bastards. But the *Portuguese* chose rather *John* Master of the order of *Avis* the base Son of *Peter* and Brother of *Ferdinand* for their King, than *Beatrix*, who was an Adulterous Bastard. For *Ferdinand* King of *Portugal*, had taken the Wife of a certain Souldier, nam'd *Laurence de Coignie* by force, and tho' upon her bended knees she deprecated the injury, and importunatly besought the King that she might be restor'd to her own Husband, yet was he banish'd; So *Ferdinand* having by violence obtain'd his base end, had by her one Daughter named *Beatrix*, of whom he was so very fond, that he made her be declared heir of the Kingdom. This *Laurence* of *Coignie* out-liv'd *Ferdinand*, and intended an action for having his Wife restored to him; but was forced to desist for fear. *Froissard* describes this story to the life, and he was the most accurate Historian of that Age, in which he himself also liv'd. So that a man who has read that History, may deservedly say, that *Doleman* was dreaming, when he asserted that that *Beatrix* was the true heir of the Kingdom of *Portugal*.

Cap. 18. lib. 3. suæ historiæ.

But to pass by these things as old and obsolete, tho' they are not older than the Marriage between the Duke of *Lancaster* and *Catharine Swinford*, what shall we say of the Children of *Emmanuel* King of *Portugal*? Shall we not reckon all them also to be spurious? *Isabella* the Mother of *Philip*, and *Edward* the Grandfather of the Dukes of *Parma* and *Braganza*: All these will be found to have been begotten not only in Adultery, but also in Incest. For King *Emmanuel* had all these by *Mary* the Daughter of *Ferdinand*, whose Sister *Isabella* he had for his former Wife, and by her his Son *Michael*, who died young, and his Mother *Isabella* died before him. Then *Emmanuel* married *Mary* the Sister of the same *Isabella* for his second Wife, I believe truly by a dispensation from the Pope. But who will say that the Pope can grant dispensations against the Law of God? 'Tis truly against the Divine Law for any Man to marry two Sisters, or for one Woman to be married to two Brothers, as both the words and meaning of God's Law warn us. For he who said to Herod *it is not Lawful for thee to have thy Brothers Wife*, seems to have said the same thing to *Mary*, 'tis not lawfull for thee to have the Husband of thy own Sister for thy Husband.

All King Emmanuel's *Children were begotten in Incest.*

To

To this may be added, that the Marriage of *Henry* VIII. with *Catharine* of *Arragon*, the Wife of his Brother *Arthur*, was condemned by the moſt famous Univerſities in *Europe*, and by a ſpecial Statute of the Kingdom of *England* under *Henry* VIII. by which the Marriage of *Henry* with the ſaid *Catharine* was reprobated, as being contrary to the Law of God.

Other inſtances may be brought as well in the Line of *Portugal* as of *Caſtile*; For it has been cuſtomary to both Families to marry their Nieces by their Siſters. How often have theſe Kings diſmiſs'd their Wives under pretence of propinquity of Blood, and divorces made by the meer pleaſure of the King alone, even without the Popes conſent alſo, tho' diſpenſations were then in uſe? Thus *Henry* King of *Caſtile* divorc'd his Wife *Malfred* who was Siſter of the King of *Portugal*, under pretence of their being within the forbidden degrees, without waiting either for the Pope of *Rome*'s conſent, or of the ordinary Judge of ſuch matters. And *James* King of *Arragon* upon the pretence of Conſanguinity rejected his Wife *Eleonor*. He who will be at the pains to read carefully the Jeſuite *Mariana*'s hiſtory, ſhall ſee, that in thoſe times ſcarce the third or fourth King was free from that Crime. But whether the Children of thoſe Kings were ſpurious or not, let the Reader judge, *ſeeing it is not lawful for a man to ſeparate them whom God had joined together.*

The Kings of Spain *uſed to Divorce their Wives by their ſole authority, without any other Judge.*

Finally, that nothing may remain of the Line of *Portugal* from which *Doleman* and his Fraternity may hope, that ſuch as are of it, have any right to the Kingdom of *England*, or even to the Kingdom of *Portugal* it ſelf, I ſhall give this farther account of it. 'Tis certain that *Alphonſus*, who was made Coadjutor to his Brother *Sancius* by the Pope, in the time of his Adminiſtration Married *Mathildis* for his Wife, who was Counteſs of *Bulloigne*, and a *French* Lady. *Alphonſus* after his Brother's Death Succeeded to the Kingdom of *Portugal*, and having rejected his Wife *Mathildis*, whom he left in *France*, Married *Beatrix* a baſe Daughter of the King of *Caſtile*; but *Mathildis* being inform'd that ſhe was abandon'd by her Husband, and that he had Married another Wife, having hired ſome ſmall Gallies, ſhe goes to *Lisbon* on purpoſe that ſhe might live in Conjugal Society with her Husband. But he refuſing to receive her, and ſhe being deny'd acceſs, and the Citizens of *Lisbon* forbidden to afford her the neceſſaries of Life, ſhe return'd to *France*, and afterward complain'd to the Pope of the Injury done her, and of the unlawfull Marriage of *Alphonſus* to another Wife. Whereupon the Pope excommunicated *Alphonſus*, and put all *Portugal* under an Interdict as *Mariana* plainly tells us [a]. But we have a farther Evidence for the truth of this, in that meeting and diſpute before *Henry* the laſt King of *Portugal*, which was held among the Competitors about the Succeſſion of the Kingdom of *Portugal*, wherein *Catharine de Medices*, in behalf of the right which ſhe pleaded to the Kingdom of *Portugal*, aſſerted in the preſence of *Henry* that ſhe was the ſole heir of that Marriage that was between *Alphonſus* and *Mathildis*, and that all they, *Henry* himſelf not excepted, who were born of the ſecond Marriage of *Alphonſus* with *Beatrix*, were Baſtards, and they were no leſs than Eleven Kings whom ſhe charged with being illegitimate and Baſtards, and ſaid that none of them had any right to the Succeſſion of the Kingdom of *Portugal*; And this was not without great diſhonour to *Henry* himſelf who

All the Children of Alphonſus *King of* Portugal *were born in notorious Adultery, and conſequently all deſcended of it are uncapable of the Kingdom.*

[a] Mariana c. 4 & 12. lib. 3. de rebus Hiſpaniæ.

was

was then preſent, and perhaps ſhe had inſiſted farther on her title tho' very remote, could ſhe have clearly prov'd her deſcent from that Marriage, between *Alphonſus* and *Mathildis* of *Bulloigne* [b].

From all which it appears, that nothing is to be met with in all that line of *Portugal* but perpetual Illegitimations, which we commonly call Baſtardies as well in *John* as in this *Alphonſus*; nay in the deſcendants from *Emmanuel* himſelf, and in *Philip*, as I have now obſerv'd. Nay ſhou'd we ſearch into the Birth of Parents, by what right has the King of *Spain* got *Sicily*? Is it any other way, but that *Peter* Prince of *Arragon* the Son of King *James*, Married *Conſtance* the Daughter of *Mainfroy* for his Wife, and with her had *Sicily* as her Portion? But this *Mainfroy* was no better than an Adulterous Baſtard of the Emperour *Frederick* II. who was alſo King of *Sicily*, having by craft and force got poſſeſſion of that Kingdom [c].

Let the *Spianards* therefore beware of being too ſtrict in their enquiries into the natural rights of other Families, leſt they themſelves ſuffer the ſame Loſs, which they endeavour to bring upon others. But I ſhall forbear to ſay any more that might reflect upon the Families, which *Doleman* brings upon the Stage, to oppoſe the right of the King of *Scots*; for I would by all means avoid the expoſing any family or perſon, except where I am neceſſarily obliged to do it, for the clearing of this Controverſy.

'Tis manifeſt therefore, that the Children of that third Marriage between the Duke of *Lancaſter* and *Catharine Swinford* were legitimated, and thereby enabled to Succeed; And conſequently of the deſcendants of that Family, (the reſt being killed) *Henry* VII. only remaining, he was the true Heir and Prince of the Family of *Lancaſter*; unleſs we will deſtroy all Right, and enervate all the ſtrength of legitimation. And thus, unleſs I am greatly deceiv'd all *Doleman*'s objections, againſt the right of the moſt Serene King of *Scotland*, are fully confuted by good reaſons, and upon ſolid grounds, and ſo it's evident that King *James* of *Scotland* is the one, and true Heir and Prince, after Queen *Elizabeth*'s Deceaſe, of both the Families of *York* and *Lancaſter*. Eſpecially, ſeeing this title of the King of *Portugal*, has never been ſo much as mentioned, no not even in Taverns or publick Houſes.

[b] Hieronymus Conſtaggius de Conjunctione Portugalliæ & Caſtallæ. lib. 3.

[c] Mariana, c. 12 lib. 13. de rebus Hiſpaniæ.

CHAP. XVI.

Whether or no the Government or Adminiſtration of a Natural Prince in a Kingdom be more expedient, than that of a Foreigner.

Doleman *unmask's himſelf and declares plainly for the King of* Spain.

Doleman being ſenſible that his Plot cou'd not take, and that people were not to be impoſed upon, while he acted in masquerade; he at length lays aſide his mask, ſo as all may plainly ſee, by the ninth Chapter of his Second Part, that he avowedly aims at the King of *Spain*, for Succeſſor in the Kingdom of *England*, (to ſay no more:) But wiſely forſeeing, how ſurprizing the very thought of being under the Yoke of *Spain* muſt needs be to the true *Engliſh*, that he may obviate that juſt prejudice and bring them to ſome temper, he cunningly throws this queſtion in the way, *Whether it be better to be under a foreign Opulent and mighty Monarch, or under a home-born Prince, who being a poor King has not riches ſufficient for the defence of the People*: So that by comparing the King of *Spain* with the moſt Serene King of *Scotland*, he may the more eaſily entice the *Engliſh* to embrace the Servitude of *Spain*, And tho' I am abundantly ſatisfied, that I may ſave the Reader and my ſelf the pains of conſidering this queſtion, as knowing that the *Engliſh* have the utmoſt abhorence of a *Spaniſh* Governour, from the repeated experience which they have of the inclinations of that Nation towards them, yet I may be allow'd to Philoſophize, as they ſay, a little upon this matter.

What is Lawful and right is always to be preferred to what is profitable.

'Tis evident that this whole Queſtion, upon which I have compos'd this Treatiſe, is a matter of Law and Right, which obliges us to conſider, what is Right, what is Lawful and Equitable, not what is Profitable. Had *Doleman* conſulted the honour of his Fraternity as he ought, he had never put this into his queſtion, what is better, more expedient or profitable, but would have fairly preferred what is honeſt, right and lawful to all the leſſer conſiderations of profit or advantage. For our enquiry here is not at all of what is Profitable and Advantageous, but of what is Right and Juſt, and who it is that by the Laws of God and Men has the beſt Title and Right to the Succeſſion of ſo conſiderable an Empire. And we ought to look upon our ſelves as ſtanding before the Tribunal of the Omnipotent and Omniſcient God, who weighs, what is Lawful and Right, not by Money or ſuch baſe and ſordid things, but in the balances of his own Juſtice. Pray what kind of reaſoning is this, the King of *Spain* ſhall reign in *England* with greater advantage to *England*, therefore, the Succeſſion of the Kingdom of *England* belongs to him, and the true Heir muſt be caſt out from his own juſt and undoubted Right of Succeſſion, becauſe the King of *Spain* is Richer than he. For the whole Queſtion is no more to be, what is Lawful, Juſt or Right in this matter, but *Doleman* makes it turn entirely upon this Point, what is moſt Advantageous, and moſt Expedient.

I remem-

I remember I have read in *Xenophon*, a Comical contest between two Boys, one of which of a Lower Stature had a large Coat, while the other who was much Taller than he, had a short one; the last having violently taken away the large Coat of the former, and put it upon himself, leaving him who had the Coat disproportionably large for his Body, the short Coat, which yet was answerable to the size of his Body; complaint being made of the injury by him who was wrong'd, and from whom the Large vestment had been violently taken, their Schoolmaster appointed *Cyrus* to be Judge, who was to hear both P rties and had power to decide that Controversy. For the Children of the *Persians*, used to be exercised to judge in questions of what was right and wrong, even as we use to Instruct our Children in Grammar and Logick. *Cyrus* therefore being made judge between the Boys, adjudged the Larger Coat to the Big Boy, and the shorter to the lesser, as being more convenient for them both. Report of this Sentence being made to the Master, *Cyrus* was soundly Whipt; for the Master said that he had appointed him to judge not of what was profitable and convenient, but to consider what was just and what unjust in the case; he ought therefore to have carefully examined, who had the best Title or right to the Coat; Whether his right was better to it, who had forcibly taken it away, or his who had either acquir'd it by his industry, or purchased it with his Money. But this Crafty Sophister making himself Judge of the Titles of the Claimants to the Succession in the Kingdom of *England*, Judges not what is Right, what is Honest and Fair, or what is Pious; troubles himself with no Inquiry into what the Laws of God and Men prescribe, but only what is likely to be most for the Interest and Advantage of *England*; and therefore had he lived in *Persia*, with *Cyrus*, he had been soundly lasht with *Iberic* Cords, untill both his sides had sufficiently smarted, or with the *Lictor*'s Rods in the publick Streets untill the Executioner had been Weary. For not that which is profitable nor what is expedient is put in the question: But whether he who by the Laws of the Kingdom has the right to it, and of which he is the Lawfull Heir, ought to possess it, or rather he who has most of the *Mammon* of *unrighteousness*, who is Richer or more Opulent. But to this kind of men, whatever may enrich them most is Lawfull and Sacred, and they measure all right and justice by sordid gain, and worldly interest.

[1] Lib. 1. Cyripædias.

A remarkable example, with relation to what is just, and what is expedient.

The *Athenians* did much more justly in that most dangerous War against *Xerxes*, when *Themistocles* told them, that he was capable to do the most Extraordinary Piece of Service for his Country in great distress, and yet it was not expedient that the design which he had formed, should be discovered to many; they ordered him to acquaint *Aristides* with it, which being done, *Aristides* told the *Athenians*, that the Council of *Themistocles* was most profitable for them, but that it was repugnant to Justice and Honesty: And therefore it was rejected by the *Athenians*. *Cicero*, in his Book of *Offices*, says, if a doubt arises at any time, and what is profitable seems to be inconsistent with what is honest, whilst utility appears to be on one side, and honesty on the other, in his Judgment, what is right and honest ought always to be preferred, to that which is profitable. But our Adversary seems to have been educated in *umbra Philosophorum*, and not in the School of *Jesus Christ*, whose blessed name he falsely assumes. He has not been train'd

A memorable example of the Athenians.

train'd up in the precepts of the Sacred Scripture, which in every Page, commends a ſtrict obſervance of Judgment and Juſtice; Nay pronounces them *bleſſed that keep Judgment: and him that doth righteouſneſs at all times*, Pſal. 106. 3. Where we are forbidden to covet what is another's, and commanded to render to every man what is his own; but *Doleman* ſeems to have been bred in the School of that *Photinus*, in the Court of *Ptolemy* King of *Ægypt*; who when *Pompey*, being beaten in the Battle at *Pharſalia*, fled for ſhelter from his Victorious Enemy to *Ptolemy*, as hoping that the memory of good offices formerly done, in raiſing the Father of the ſame *Ptolemy* to the Kingdom, wou'd be conſidered, was roundly advis'd by *Photinus* not to receive him; this Counſel of his is to be met with in *Lucan*,

Photinus *in* Lucan *compar'd with* Doleman.

——————*Sidera cœlo*
Ut diſtent, & terra mari, ſic utile honeſto,
Sceptrorum vis tota perit, cum pendere juſta
Incipit, evertitque arces reſpectus honeſti, &c.

When Sea from Land and Stars from Heaven ſhall ſtart,
The Profitable and the Juſt may part,
Kings are meer names when once they heſitate
At Right, or love of Juſtice ſhocks their State.

In conformity to the manners and Speech of this *Photinus*, *Doleman* thinks that in this diſpute, not what is Pious, what Lawful, what Right, but only what is Profitable is to be minded; But that all things are to be weighed by their utility and the advantages which may attend them.

The People's condition very miſerable under a Foreign Prince.

But let us ſee if he brings real Advantages, or rather counterfeit Poiſon dreſſed up under with the appearance of Advantage, which yet hath not ſo much as the colour of good and profitable, but only ſome ſpecious beginnings, in a progreſs full of miſery, and a deteſtable, and perhaps alſo direful concluſion. He owns indeed, that the condition of the people is very hard at firſt under a foreign Prince, the ſervitude is grievous, which alſo *England* has experienced to its coſt, by many examples of the *Romans*, *Saxons*, *Danes* and *Normans*; And that naturally men have an abhorrence of the Government of Foreigners, and that to be delivered from it they have run the greateſt hazards, and committed moſt horrid Maſſacres, which have been attended with vaſt butcheries and deſtructions of mankind. Thus were the *French* expuls'd *Sicily*, the *Danes* from *England* and the *Engliſh* driven out of *France*; For there is a certain Natural Sympathy and mutual affection, between thoſe who have the ſame Language in Common. Finally he brings alſo the authority of the Sacred Scripture, forbidding to chuſe a Stranger, but one from among our own brethren for our King. In all this I own *Doleman* to be much in the right, but he only fences and touches theſe things very gently, which ſhall be more fully and minutely conſidered, when I come to anſwer his Arguments.

The

The firſt thing then in this point, that *Doleman* requires, is, that this ordinary or common prejudice againſt ſtrangers or ſtrange Governments, be laid aſide, ſo long at leaſt, as the matter is in diſpute, whether the Government of a foreigner be more profitable and expedient, or that of a Prince who being born in the ſame Country, uſes the ſame Language with the people? He adds, that one is called a foreigner rather by the fancy, and fond opinion of the Vulgar, than according to the truth or reality of the thing, and that the effects of Government are to be conſidered, whether under the Government of a foreigner and his delegate, the people may live more freely and ſafely in peace, reſt and quiet, and enjoy wealth, ſecurity and all other ſuch benefits, than they can do under the Government of a Natural Prince, who is born in their own Country. And this he ſets forth by the following example: If, ſays he, in two Countries lying near together, the Subjects of the one ſhould live in all Eaſe, Wealth and Proſperity under a ſtranger, and the other ſhould be beaten, whipped and afflicted under their own natural home-born Prince, he does not doubt but the condition of the former would be preferred by any body, to that of the latter. And that it imports nothing in what Country or how diſtant ſoever the Prince and his Officers were born, or of what Blood or Extract, Nation or Language ſoever, and a meer ſtranger, and even unknown to the Country, which he governs; but that he ought rather to be preferred, to the Natural Lord or Prince, tho' born in the ſame City, yea in the ſame belly, if he be cruel, bloody, and bring along with him deſtructions and devaſtions. For it was no happineſs to the *Caſtilians*, that *Peter* ſirnamed *the Cruel* governed them, tho he was born among them, nor to the *Engliſh* that *Richard* II. *Henry* IV. *Edward* IV. and chiefly *Henry* VIII. Reign'd over them, who put to death the chiefeſt of the Nobility at their pleaſure. If then the end of Government or civil Society, be attain'd, as that the Subjects, the People, and all ranks and degrees of them, do live well and proſperouſly, and that this happen rather under a powerfull foreign Prince, than under a Natural Sovereign, the Government of a foreign Prince is rather to be embraced, than that of their natural Prince. This indeed is the very thing, which *Doleman* craftily projected from the beginning, that taking away all difference of Right and Wrong, of Juſtice and Injuſtice, the people may at their pleaſure beſtow the Kingdom on whomſoever they will, ſo as it may be for the welfare of the people.

Doleman's requeſt in order to his great deſign of promoting a foreign Prince to the Crown of England.

He propoſes therefore three ways, by which Kingdoms may come to be under the power or Government of Foreigners. The firſt is acquired by force of Arms, the ſecond by the right of Succeſſion, and the third partly by Inheritance, and partly by Arms: Of all the Three, he acknowledges, that that by Conqueſt is the hardeſt and moſt prejudicial to the Subjects. All theſe things have the appearance of truth: But whether, while the *Roman* Empire laſted, all the people under it lived moſt quietly and peacefully, in that he knowingly and induſtriouſly ſeeks to impoſe upon his Reader.

Three ways by which Kingdoms come under Foreigners.

For tho' in the beginning, the *Romans*, to conciliate the favour of their Conquered Provinces, ſeem'd to be obliging and ſomewhat tender of their new Subjects; yet no ſooner was their Empire ſtrengthned, and well eſtabliſhed and confirm'd, but they miſerably harraſs'd their Provinces. What ſhall I ſay of *Sicily*, the firſt Province of the *Romans*? 'Twas

Whether the Provincials were well uſed under the Roman *Government.* Sicily.

Gaul.

wretchedly ſqueez'd and pillaged, even in the time of *Cicero* by *Verres* who was a moſt wicked Fellow. Or what ſhall I ſay of *Gaul*, which after it was Conquer'd and reduc'd into a Province, was deſtroy'd by all the ways that their new Maſters could invent? This appears ſufficiently from the ſpeech of *Critognatus*, in *Cæſar's Commentaries*, which in *Engliſh* is this, "What elſe do the *Romans* demand, or what would they have, unleſs that being moved with Envy, they may ſeat themſelves in the 'Cities and Poſſeſſions of thoſe, whom they themſelves own'd to be of 'great Fame and Powerful in War, and to bring them under perpetual 'Servitude? Neither did they ever make War for any other end. But if 'you are unacquainted with what is done in the far diſtant Provinces, look 'upon *Gaul* that's in your own Neighbourhood, which being reduced in-'to a Province, and it's Laws and Cuſtoms changed, is made Subject to 'the *Roman* Government, and groans under continual Slavery.

Cæſar. lib. 6. commentar. de bello Gallico.

The Speech of Critognatus.

The miſeries of Britain *under the* Roman *Empire.*

I am aſham'd and unwilling to report the treatment which *Gildas* tells us, that the *Britons* had from the *Romans*, leſt it ſhould be thought that I inſult over them. I ſhall only tranſcribe from *Tacitus* a part of the ſpeech of *Galgacus*, which he made juſt as they were ready to Fight *Agricola*, 'The *Romans*, ſaid he, are now got too far into the Bowels of 'our Country, ſo that it is vain to expect to eſcape their Inſolence by 'obſequiouſneſs and modeſty. Theſe Robbers of all the World, now the 'exhauſted Lands can no more ſupply their Rapine, think to riffle the 'Seas: Where they meet with opulent Enemies, they are Cruel through 'Covetouſneſs: Where with Poor, through Ambition. The Eaſt and the 'Weſt as large as they are, cannot ſatisfie them, they alone with like Gree-'dineſs invade the Property and Riches of all Nations; All that they aim 'at is but to ravage and deſtroy, to Raviſh the Empire of the World under falſe 'Pretences, and when they themſelves have render'd a Country deſolate, they 'boaſt of their Eſtabliſhed peace in it. And in another place he ſays, that the *Romans* impoſed two Kings at once, the *Legatus* and the *Queſtor*; the firſt to Tyrannize over their Perſons, and the other to Pillage their Subſtance. This and much more is to be found in *Tacitus*. But *Gildas* may ſerve for all as a witneſs of the inexpreſſible miſeries, which the *Britons* ſuffered under the Government of the *Romans*.

In vita Agricolæ.

That Epiſtle of *Mithridates* in *Salluſt* to *Tigranes* when he endeavoured to engage him to enter into a Confederacy with him in the War, ſhews us ſufficiently, what the behaviour of the *Romans* was in *Aſia*. 'The *Ro-mans*, ſays he, 'have an inſatiable Luſt and Ambition, of ſubverting all 'Kingdoms, and yet, they had nothing at firſt, but what they procured 'by Rapine. Their Habitation, Wives, Lands, and Empire were erected 'ſome while ago, without any Country of their own, without Parents, 'for the Plague of mankind. Neither the Laws of God nor Men, nothing 'Sacred or Civil, can reſtrain them from deſtroying their Friends, as well 'as their Enemies. But above all things they reckon all Kingdoms as 'Enemies. The *Romans* make War againſt all men, but the moſt deſtru-'ctive Wars, where after Conqueſt, they look for the greateſt Spoils; 'that ſo by their undertaking boldly, and their Treacherous cunning, and 'making one War uſher in another, they may at laſt ruine and extinguiſh 'all. This and much more he ſays of them.

The Judgment of Mithridates *in* Salluſt *concerning the* Romans.

I ſhall

I shall add something out of *Maximus Tyrius*, in which all men may as it were in a mirror behold the miseries of being under a Foreign yoke; An inhabitant near the *Danube*, who had been miserably ill treated in *Germany* by a *Roman Questor*, came into the Senate-house, to complain of the injuries he had receiv'd. 'You have said he, O *Romans*, Subjected *Germany* to your selves, but how much Glory soever you have thereby acquired, Posterity will reckon the Infamy of your Tyranny and Cruelty vastly greater. While you are drawn in your Triumphal Chariots, the Captives follow letting fall Bloody tears from their Eyes, and demanding Justice from the Gods. Your Covetousness in ravaging the Goods of other men, your Pride in affecting so great an Empire, is so unbounded, that neither the Sea with its abyss, nor the Earth with all its fullness is sufficient to satisfy you. But the destinies have ordain'd, that as you have violently cast others out from their own Houses, so the time will come when you your selves shall be expelled *Rome* and *Italy*. For this is an Eternal Law, Who ever by violence takes what is another man's Property, loses the right that he had to his own; And what the wicked have by their Tyranny in many years heap'd up, shall in one day be overturn'd by the Gods. Neither, said he, can you hope that these things will do good to your Children; For that Law is also written by the hand of God, the unjust ravages of Parents, are the just ruine of their Children. And having said much more to the same purpose, he adds at last, 'Besides that you have taken from us our 'Liberty, you have impos'd unsupportable and most heavy Taxes and 'exactions upon us; and that nothing might be wanting to compleat our 'Miseries, you have appointed us such unskillfull and stupid Judges, as 'neither know their own Laws, nor understand ours; And there is no 'end of their base covetousness, if there be any appearance of gain 'whether from private men or the publick; but they pull and hale all 'to themselves. If you reckon us Rebels then punish us with the loss of 'life it self; for your Swords are not more dreadfull to our Throats, 'than your Impieties are grievous to our Hearts. That we may avoid 'these your Tyrannical oppressions and impieties, and that our Posteri-'ty may not be under such miseries, as their Fathers suffer, we have 'all with one consent decreed to abstain from Marriage, lest we should 'beget more Children, and also to kill the Children which we have al-'ready, that none of ours may remain, on whom you may afterwards 'exercise your cruelty. Would you know, O *Romans*, how Justice is ad-'ministred among us by your Legates, when there is no Money nor 'Wine, wherewith to bribe them, if no present of Oil be promised 'them, the Plantiff is deceiv'd with vain hopes, untill all his Substance 'be exhausted, and he and his Family with their importunities weary 'the Gods, who are the Avengers of the injured, and with united hearts 'and voices incessantly implore the Divine Justice for Vengeance upon our 'oppressors. For my own part that my eyes may no longer behold your 'Rapines and Butcheries, I have Sentenced my self to banishment from 'my own House, that my Bowels may no more be rent with the 'doleful Lamentations and Howlings of my Wife and Children, crying 'out under your unsupportable Tyranny, and which I have so often 'heard with horror.

The Speech of an old German to the Senate of Rome concerning the Tyranny of the Romans.

But

The miſeries of England *under the* Normans.

But perhaps theſe things may ſeem to be feigned and old out-dated Stories: Has *England* it ſelf then been more gently uſed by the *Norman Conquerour*? I do not think that the *Engliſh* will ſay, that they met with much better treatment; All their Lands and Eſtates were divided among the chief of the *Normans*, the Abbots were forced to change their Garments, if not their Lives, the Churches were robbed of the rich Gifts wherewith they were well ſtored; Neither did the Dead Bodies eſcape their ravages: All *England* was exhauſted of its great Wealth and Subſtance; The *Engliſh* Nobility were engaged among themſelves, that they might deſtroy one another by War; the people kept under a moſt miſerable Slavery: And ſuch as were not only ignorant of the Laws of *England*, but who alſo trampled upon them, were made Judges over them and were entruſted with the Adminiſtration of Juſtice. Neither did the people ſo much as underſtand what was either pleaded or enjoin'd them. But that which is the height of Miſery, Juſtice, was adminiſtred to them in an unknown Tongue, which made moſt of the Nobility and Gentry of *England*, chooſe a voluntary exile, rather than to be Witneſſes of ſuch horrid Tyrannies; as were exerciſed every where in their own Country; And many of them removing with Queen *Margaret* into *Scotland* ſeated themſelves in that Country, and gave riſe to many Families there. But I paſs by the *Normans*.

The Calamities of the Engliſh *under the* Danes.

What miſeries did the *Engliſh* ſuffer, or rather what did they not ſuffer from the *Danes*, while theſe were their Maſters? Nay perhaps their Yoke was yet more grievous and unſupportable; For they not only entred into their houſes and poſſeſſions, but had alſo ſpies upon them, ſtrictly to obſerve all their words and actions, leſt they ſhould contrive or attempt any thing againſt them; For each houſe had it's *Lord Dane* all of them living in idleneſs upon the ſweat and induſtry of the miſerable People. In the mean while neither their Daughters, nor their Wives were ſafe from the Injuries of thoſe Spies, untill at laſt the reſentments of the *Engliſh* upon thoſe provocations aroſe to that height, that as the *Sicilians* in one Night's time deſtroy'd all the *French*, ſo the *Engliſh* having formed a Conſpiracy, in one Night killed all the *Danes*. There can be no greater evidence of an extraordinary hatred than this, that notwithſtanding there was ſuch a general Conſpiracy, to which ſuch vaſt numbers of people muſt needs have been privy, againſt the *Danes*, yet it was never diſcover'd by any Body, untill it was put in execution.

The miſerable treatment of the Britons *by the* Engliſh-Saxons.

But the *Engliſh* may look back upon what their Predeceſſors did to the *Britons*, who had called them in to aſſiſt them; For ſoon after the arrival of a greater number of their Countrymen, they turn'd their Arms againſt the *Britons* themſelves, and a great part of them being killed, their Goods plunder'd, their Wives and Virgins violated, the remainder of them were driven into *Wales*, and penn'd up in that narrow corner of *Britain*.

As alſo by the Romans.

But as to what the *Britons* ſuffered from the *Romans*, and how they were chaſtiſed with their Scorpions, and what ſcars and marks were made on their Backs, and how by that Diſcipline they were taught to perform the part and drudgery of Slaves, I referr the reader to the teſtimony of their own Country-man *Gildas*. Wherefore I conclude this crafty Sophiſter has undertaken a very hard task, in endeavouring to perſuade the *Engliſh* to receive a foreign Prince to be their King, eſpecially one of a ſtrange Language, which is the ſource of all miſeries to a People.

The Engliſh *Caution'd againſt a foreign Government.*

But

But this *Jesuite Doleman* has another reserve for himself, for he can freely condemn the Avarice, Cruelty and Insolence of the *Romans*, and therefore their Power was not of a long duration, because it was acquired by Violence and Wickedness. But the manner of the *Spaniards* is quite different, they are naturally, more gentle and modest, and kind and most obliging to Strangers. Neither do people live better or in greater safety any where, than under the Power and Government of that most mighty Monarch. And to convince us of this, he instances in *Sicily*, *Naples*, *Milan* and *Flanders*.

Doleman praises the Spanish Government.

As for *Sicily* and *Naples* I shall for answer only take notice, that the King of *Spain* copied after the *Example* of *Sextus Tarquinius*'s behaviour towards the *Gabii*, who was commanded by his Father, *ut summa capita demeteret*, to cut off the greatest and most principal men among them, that so he might more securely tyrannize over them: So the *Spaniards* to prevent any insurrections from the People of these Countries against their Government, destroy'd all, who were capable of giving them any disturbance. 'Twas crime enough, and no man might escape with his life, if he was either considerable upon the account of his Privileges and Dependencies, Friends or Wealth, or if belov'd by the People; And if he fled from their cruelty he was condemned to perpetual Banishment. Let *Doleman* tell us if he can, how many Noble and Opulent Families remain at this day, in *Sicily*, or how many of the party of *Anjou* are now of any figure in the Kingdom of *Naples*? Let the Histories of those Kingdoms be read, to see whether any, whose power might have been fear'd, are still in being. The *Spaniards* took the same method with the *Milanese* who were almost all levelled, as the *Spartans* had been before by their King *Lycurgus*; So that there are none now in that Dutchy, who dare mutter or open their mouths, whatever grievous burdens are laid upon them. Neither is what *Doleman* affirms of the condition of the *Neapolitans* and *Sicilians*, altogether true; That they are not under such Tributes and Impositions, as the natural *Spaniards* are burden'd with, unless in regard that both these Kingdoms are held of the Pope as Superiour, and are Fiefs of the See of *Rome*. *Philip* therefore cannot without the Popes consent, impose any Taxes upon them, and so this Impostor would craftily ascribe that to the good nature and Clemency of the *Spaniards*, which proceeds purely from necessity; and yet the *Spaniards*, omit nothing in these Countries that can either raise the Kings revenue, or lessen the power and wealth of the People.

The miseries of Sicily, Naples *and* Milan *under the Government of* Spain.

But I shall in one or two instances only give you a Specimen of the natural Clemency of the *Spaniards*. The first shall be from *Jerome Benzon* in the *West-Indies*, who in the Preface of his History says, (I give the reader his Words, lest it should be thought that I have devis'd this Story,) That *Hispaniola*, *Cuba*, *Jamaica*, with the Islands of St. *John de Portu divite*, and *Guanaxia*, are witnesses of the *Spanish* Cruelty and Tyranny, in which Countries the *Spanish* historians themselves acknowledge and bear Witness, that there are not left at this day five or six hundred *Indians* of four millions and a hundred thousand who inhabited these *Islands*; so far did the Covetousness of the *Spaniards* exceed the destructions even of the greatest Wars. And consequently, all that has been anciently written of the Cruelties of the *Romans*, *Danes* and *Normans* are nothing but sport and diversion or Children's play, compared with that of the *Spaniards* over their new Conquests; In which they would not suffer

Instances of the cruelty and avarice of the Spaniards *in* America.

In præfatione Hiſtoriæ, Benzonis. lib. de novo orbe.

the People whom they ſubdued, to live. The reader may be curious to know, by what kind of death, ſuch vaſt numbers of People periſhed. I Anſwer not by War, nor by Famine, nor by Peſtilence (unleſs we ſhou'd call the whole execrable Company of the *Spaniards* a Plague,) but they all periſh'd by the Avarice of the *Spaniards*. For being ſet at work day and night to rummage the Sands, and from thence to gather Gold duſt for their new Maſters, without being allowed any time of reſt and refreſhment from their toil, when their ſtrength was ſpent they ſunk under the unſupportable burden, dying at their very work and Labour.

* Another Inſtance of the humanity and great moderation of the *Spaniards*, ſhall be in their behaviour towards the *Dutch*, which *England* is not unacquainted with. They attempted to do by them, as formerly they had done in *Sicily* and *Naples*; For when they put to death *Philip*, *Mommorency* who was an Earl, with the Count *Horn* and *L' Amorat* Count of *Egmont*, (*Egmont* I ſay, who for the great Services that he had done them in their Wars with *France*, deſerv'd of them a far other ſort of Treatment,) and the two Brothers *Batemburgs*; And the Prince of *Orange* with his Brothers, and moſt others of the firſt Quality had met with the ſame fate, unleſs they had prevented it by making their eſcape in time. Finally the Common People, who remain'd undeſtroy'd, were fined a Sixth part of their goods, which was put into the Treaſury; And they were loaded with ſuch Exactions and Miſeries, as that when one thing was ſold in the Market four or five times in one day, a cuſtom very common in *Holland*, the exactions were ſo reiterated, that in one day, it has been obſerv'd that they equalled the value of the thing. This is the gentleneſs and Clemency of the *Spaniards*, which they uſed toward their Natural Subjects of the *Nether-Lands*. Shall we think, that they would behave themſelves with more Humanity and Moderation toward the *Engliſh*, againſt whom they have a moſt deadly and implacable Hatred? Let our Neighbors call to remembrance, what things were prepared for them in that Terrible Naval expedition, which was undertaken by the *Spaniards* in the Year 1588, what Chains, Manacles and Shakles were in readineſs to Tie the *Engliſh*, whom they hop'd to Conquer, as ſo many Wild Beaſts? As they reckon'd their *Armado* to be Invincible, ſo they hugg'd themſelves with the proſpect of exerciſing their Inſolent and Barbarous Cruelties immediately upon the *Engliſh*; but God Almighty with his Omnipotent Arm, turn'd ſo great Miſchiefs which they were to bring upon others on their own Heads.

An objection from the Cruelry of Domeſtick Princes.

But great Cruelties, ſays *Doleman*, have been uſed by our Domeſtick Princes, and he inſtances in *Henry* IV. who deſtroy'd moſt of the Nobility, part of whom were Executed in time of Peace, and others were Slain in Battle. And *Henry* VIII. was much more cruel than the former, neither have his Children, ſays *Doleman*, given over this Cruelty as yet.

* *Anſwer.* Perhaps what our Adverſary reports of *Henry* IV. is true; For he who ſo Barbarouſly Murdered his own Prince and Sovereign, could never be a good man. And no one therefore can think it Strange, that he was Cruel alſo to the Noblemen, who were Loyal and Faithfull to their King; *The Servant is not above his Maſter*. As for *Henry* VIII. tho he was a very great Prince, yet he was not free from many faults, and ſometimes puniſh'd offences with far greater ſeverities than they deſerv'd. But

ſeeing

seeing he did nothing but by Lawfull Judgment, and by the Inquest of Twelve Sworn Peers, we are not to believe that he did any thing unjustly, lest by charging him with Cruelty, we also bring in the Inquests guilty of perjuries. These and such like things fall out according to the temper of the Prince that Reigns. The People are very happy who live under a Gentle Prince; But God is pleas'd sometimes, to punish and restrain an insolent People, by a Wicked King. But let the deeds of these be compared with what was perpetrated by the Emperours of Old, *Antoninus Caracalla*, because the People of *Alexandria* had too freely jested upon him, called them out under pretence of seeing a review of his Forces, then having surrounded them with Souldiers, he took care to have them all Massacred, while they suspected no harm. When he wrote an account of that affair to the Senate, he warily abstain'd from letting them know the Number of the Slain, and yet 'tis certain that it was very great; for that City, next to *Rome*, was most Famous for Multitude of Inhabitants. The Emperour *Theodosius the great*, who was otherwise a Pious and happy Emperour, caused in one day Seven Thousand of the *Thessalonians* to be put to Death, for an Injury they had done his Ambassador. Not only a day but a Year would be too little to reckon up these Tragical Examples of the Cruelties of the Cæsars. *Caligula* wish'd, that all the People of *Rome* had but one Neck, that with one blow he might have cut it off: And yet our *Doleman* is not asham'd highly to extoll the Clemency and Humanity of the *Romans*.

But to return to our business, no *English* man will perswade himself that the yoke of *Spain* is so light and tolerable, nor that the *Spaniards* are gentle or merciful towards their Subjects. For as people live farther to the South, Lords and Masters are the more severe and passionate, and the Servants most obsequious and most laborious. But on the contrary in the Northern parts Servants are almost equal to their Masters, and the Masters are always kind and affable to them without austerities or severities. And if the *English* who do not willingly endure a Superiour, and perhaps are impatient of an equal, suffer themselves to be so bewitch'd, as to receive the *Spaniards* for their Lords and Masters, they will no longer retain their former dignity, but must make a body of meer common people, without any share of the Government, without authority or power, and without esteem; being to live under a foreign Government, and to do every thing that their Master commands, or at his beck. Therefore as they cannot call in a foreign Prince, but by making themselves guilty of the greatest crime, so neither without bringing upon themselves the sorest calamities. For he will live in his own Country of *Spain*, and will force the *English* to receive his deputies to administer the government amongst them, and they shall hear them giving decrees in a strange Language, while they must pay them the profoundest respect with their heads bowed down to the ground, and must give them possession of all their Forts and Garrisons; And if they demand these, it must be thought to be a very equitable thing, for preventing all occasions of tumults, or insurrections. And thus the people must acknowledge as many Masters as there shall be Governours, nay Garrison Souldiers; and if any of the Subjects shall be injured, it will be in vain for him to hope for redress.

Moreover

The miſeries of being under a foreign prince in War.

Moreover the Subjects muſt all be diſarmed, as was done formerly by the Command of the *Conquerour*. And with their Arms, they muſt forego all Military Glory; For in caſe of War, they muſt depend upon *Spain* both for Counſel and Aſſiſtance; And it will be very uncertain, when and what Advice and Succours ſhall be had from thence: But yet they muſt wait for it, nay they themſelves, muſt not ſo much as take Arms againſt Robbers, before the Arrival of their Auxiliaries; neither will affairs be ordered at the diſcretion of their Provincials, but of their Lords. When theſe Auxiliaries arrive, they will be more grievous to the Subjects than to their Enemies; nothing will be ſafe from Military Licentiouſneſs, and they will never want that pretence, that they came to aſſiſt them, and cannot want neceſſaries: And if they ſend Officers to levy Forces, whenever any thing ſucceeds, well, the honour muſt redound to the Commanders. But if it falls out otherwiſe then the diſhonour or diſappointment will be charg'd upon thoſe who are under them, and they will be reproach'd, as not having obey'd their Commanders, or as not having been brave and couragious in encountering their enemies. In the mean while whatever is done, is at the expence of their Blood and the hazard of their Lives, but all the Glory and Advantage goes to another. And it is as little to be hop'd for, that theſe Foreigners will be more ſparing of the People's Subſtance than of their Lives. For the proud minds of Foreign Lords, are not to be mov'd by the moſt officious readineſs in the People to deſerve well of them, ſo as to yield or alter their meaſures, but Wars muſt commence or be laid aſide, Friendſhips and Alliances entred into or renounc'd at the meer pleaſure and beck of a Foreigner. Finally all things will be ordered by the *Spaniard* as he ſhall think fit.

Let our Neighbours call to mind what numbers of Forces were taken out of *Britain* by *Maximus* the *Roman* Emperour, who aſſumed the purple Robe or Imperial Dignity to himſelf in *Britain*, who inſtead of their own Country gave them *Aremorica* afterwards called *Bretaigne* to inhabit. Whence the reſt who remain'd in *Britain*, being depriv'd of their own ſtrength and forces, became a more eaſy prey to the *Scots*, and were forced to call in the *Engliſh-Saxons* to their aſſiſtance. For ſo may the *Spaniard* draw the flower of your Souldiery and Strength to his own Wars, being well aſſured of their Courage and Bravery, and make them ſerve under his Banner either in *Spain* or *Africk*, perhaps alſo in the *Indies*, where their Lives will be in greater danger from the Climates to which they were unaccuſtomed, than from the Enemy. For in thoſe expeditions of Prince *Edward*, and his Brother the Duke of *Lancaſter* into *Spain*, their Armies ſuffered more by the Intemperate heat there, than by the Arms of their Enemies.

In ſhort was *England* to come under the Yoke of *Spain*, the Subjects of that Kingdom might expect to undergo the burden and fatigue of the moſt diſtant and dangerous Wars, and all for the advantage of the *Spaniards*. And in times of Peace new Laws will be made, and perhaps in a ſtrange Tongue, which is by far the greateſt of all miſeries to a People; So as the people being enſnared by Laws which they do not underſtand, may be exhauſted and drain'd of all their Subſtance by fines and mulcts. For it's natural to all Princes, either to perſwade or to compell the people, who are brought under their Subjection, to live according to their own cuſtoms. The *Crotonians* were

The notable ſaying of the Crotonians.

of

of a more noble temper, who ſaid, that they wou'd chooſe rather to die, than to be mingled with the *Brutians*, and to change their own Rites, Manners and Laws, and finally their Language, for that of Strangers. There may be other evils and perhaps more grievous than theſe, which every one may make an eſtimate of, according to his own Judgment and Diſcretion. They can never ſo much as hope to enjoy the Preſence and Countenance of their Prince, all their Conſultations muſt be ſent to *Madrid*, and brought back from thence. The Riches, and the publick Revenue of the Kingdom will be a prey to others, and eſpecially of the mercenary Souldiers, and if a Subject would Petition for any thing from the King he muſt undertake a Voyage to *Spain*. But if any wou'd exhibit any complaint of wrong done him by the Lord Lieutenant of that King, ſuch as having been ill treated himſelf, or his Wife and Children having been unworthily uſed, he may ſecretly ruminate upon the injury, but muſt diſſemble it; The more cruel any man is, he will for that qualification be rais'd to the greater dignity, then ſtraight the people will be commanded to change their Religion, and again all things will be expoſed to the Covetouſneſs and Cruelty of the Inquiſitors. The Countries which receiv'd the Inquiſition, are very ſenſible at this day, to their great Grief, what ſore Miſeries and Calamities were brought upon them, by the froward diligence or rather impiety of thoſe Inquiſitors. They will earneſtly ſollicit afreſh for a new *Marian* perſecution, which if once rais'd, is not to be expiated but with the Blood of the moſt Sincere and ſtedfaſt profeſſors of the Reformed Religion; And the fierce *Spaniard*, Enraged with hatred towards the *Engliſh*, when glutted with their Blood, will exhauſt what remains with other puniſhments. Nothing will appeaſe the rage of their proud Domineering Maſters, tho' they ſhou'd tamely ſubmit to the Severeſt Chaſtiſements, unleſs at the ſame time they give their Blood to be ſpilt and their Bodies to be torn with Stripes. And the remainder of their Miſerable Life muſt be ſubſervient to the impotent luſt of their Maſters. The Common opinion is that this is very certain.

'Tis true, Peace, Safety, Quiet, Wealth and Juſtice are chiefly to be deſired in a Government, but theſe bleſſings may be better hop'd for, under a natural Prince, than from a Foreigner. For theſe are the effects of Love and Benevolence, which are rather found among them, who are of the ſame Language, than from Strangers. For even the Author of the Epiſtle to the *Hebrews* ſaid, that Jeſus Chriſt our Lord, took not on him the Nature of Angels, but of man, that he might in all things be made like unto his Brethren that he might be merciful to them, and make reconciliation for the Sins of the People. For in that he himſelf hath ſuffered, being tempted, he is alſo the more ready to ſuccour them, who are tempted. *Hebr.* 11.

The offices of Love and Benevolence are not to be found but among them who are of the ſame Country and of the ſame Language.

Neither is *Doleman* to be excuſed, in reckoning the moſt ſerene King of *Scotland* among *Foreign* Princes, who is an *Engliſhman* himſelf, and the Son of an *Engliſhman*, and is uſed to the ſame Laws and Cuſtoms, nay the very ſame Language, with the *Engliſh*. *Doleman* might as well have reckoned the inhabitants of *Northumberland* for Strangers. Nor is he to be endured, when he affirms that the admiſſion of the moſt Serene King, might be of dangerous conſequence to *England*, becauſe he may call when he liſteth Forces, which he has always in readineſs, and by

them he may deſtroy the Liberties of the *Engliſh*. For the tendency of all this, is only that he may be excluded, and the King of *Spain* receiv'd by the *Engliſh* as their King. But the *Engliſh* have more wiſdom and foreſight, than to be caught with ſuch Snares, as well knowing that the King of *Scotland*, neither can, nor would he chuſe to, reign over the *Engliſh* but with their own conſent; whereas the King of *Spain* wou'd not ſcruple to do it even againſt their Wills. He is very powerfull both by Sea and Land, commands moſt Formidable Armado's and Land Armies, and is vaſtly rich in Money, ſo as he may depend upon his own Strength, and compell even the unwilling and refractary, nay the moſt ſtubbornly obſtinate among them to Submit, and yield their Necks to his moſt unſupportable Yoke.

Doleman's *laſt Argument per reticentiam.* *Part.* 2. p. 179.

Doleman in the laſt place, adds to his former arguments, one more *per Rhetoricam reticentiam*, that *beſides the principal Houſes of* Scotland *&c. there are alſo other Secondary Houſes and Lines*, &c. *who in their own time, may put in their Claims to the Succeſſion and the Common-wealth may conſider what is to be done in admitting this or that man.* Which is nothing elſe, than if he had ſaid with *Juno* in *Virgil*.

Flectere ſi nequeo ſuperos, Acheronta movebo.

Since I in vain attempt the Gods above
I'll try at leaſt the Fiends of Hell to move.

But I let paſs all theſe his Succeſſors, untouch'd, and in full poſſeſſion of their Right, untill they get out from the deep Mud of *Doleman*'s Brain, or untill this moſt Ingenious Artiſt forge them. For without all peradventure, if *Doleman* could have poſſibly deviſed any other, with all his Contrivances, he had not fail'd to bring him upon the Stage.

Of all this Controverſy, there remains yet this one Queſtion to be conſidered, Whether it be for the intereſt of a State, that the Succeſſor ſhould be nominated, during the Life of the King, to whom he is to Succeed, or rather to leave him uncertain to his own Right and to Fortune.

CHAP.

CHAP. XVII.

Whether it be expedient that the Successor be Nominated, During the Life of a King, or not.

THIS may be truly said to be a weighty Case, and it is such indeed as Creates abundance of difficulties: For there are many who think that the nominating of the future Heir or Successor in the Kingdom, is not necessary, nor for the interest of him who as yet reigns; Because by designing the Heir, his Government may come to be less quiet, and be more exposed to changes. For 'tis natural for men, as they say, to worship rather the rising than the setting Sun, which *Pompey* also objected to *Sylla* who oppos'd his Triumph. For it cannot be, if the Successor be once appointed, but presently the Eyes and Hearts of all the People, and of the Youth especially in which the Chief part of the Common-wealth consists, will be drawn to him, he will have their best wishes, they will hope to better their Fortunes and to raise themselves under that Prince, their hopes will daily grow greater; nay perhaps they will not forbear to encounter dangers and run hazards, that they may enjoy what they hop'd for: And that their Counsels may make the deeper impression on the Successor, all that are most forward and officious to serve him, will disclose their griefs and discontents to him, will fly to when they are offended, and fondly desire innovations, or the alteration of the Government. Many examples to this purpose are to be met with in the *Roman* History; For when the Sons of the Emperours were declar'd to be the *principes juventutis*, the Princes of the Youth, which was the first step to the Empire, all the Youth composing an Army, and as they had been commanded to do it, they all followed them, and shew'd a great zeal for promoting the safety and dignity of those Princes, and wished earnestly that all such as stood in the way of their Advancement, or of their own expectations, were taken out of it, they pray'd for all auspicious and fortunate things to them, and secretly wish'd for a hasty death to their present Monarchs, that he who was the flower of the Youth might be rais'd to the Throne. Thus it came to pass in *Ægypt*, that the Sons not only dethroned their Fathers, but also murther'd them. We have the like accounts in History of the Kings in *Asia*. We see it so in this very age in the Empire of the *Turks*. Neither are such things practis'd only among the *Turks*, but such kind of Examples do sometimes fall out among Christian Princes. But not to bestow much time in reciting Foreign examples, *England* alone affords us too many of them.

Argument against the Nominating a Successor.

Before

The declaring the Succeſſor is not always for the welfare of him who Nominates or who is nominated.

Before the Conquerour, *Edward* the *Confeſſor*, who was believ'd to be a Saint, and whoſe memory is had in great honour to this day among the *Engliſh*, called home to *England*, *Edward* the Son of *Edmund*, who had liv'd in exile in *Hungary*, that he might make him his heir; But he dying within a year after his return, *Edgar Etheling* was educated as heir of the Kingdom: But the *Confeſſor* dying, The Conquerour comes in upon *Edgar* while he was very young, and by arm'd force wreſted the Kingdom from him; neither did it avail *Edgar* that he had been declar'd heir of it. When *Henry* II. was minded not only to engage the affections of the people to his Son, but alſo to bind them to him by an Oath of Allegiance, and remembring alſo that, notwithſtanding he himſelf had been declar'd heir of the Kingdom by his Grandfather, he had been almoſt quite depriv'd of it by King *Stephen*; that he might in his own life time prevent the like evil from happening to his Son *Henry*, he took care not only to have him declar'd his Succeſſor in the Kingdom: But as if this had not been a ſufficient Security againſt Rebellion, he aſſum'd him into a partnerſhip with himſelf in the Government, and caus'd him to be Crown'd. But what follow'd upon this? When the people ſaw that the Father was become ancient, they almoſt all of them adher'd to the Son, nay his Brothers alſo *Richard* and *John* were favourers of him (as of the riſing Sun) in his Rebellion againſt his own Father, and ſlighting their Father, they encouraged and defended their Brother's faction. And both the *French* and the *Scots* acknowledging the Son as true Heir, did not fail to leſſen and depreſs the dignity of *Henry* the Father, as long as his Son *Henry* liv'd, and to be troubleſome to him; neither was the Government of *Henry* the Father Peaceable from that time. From this very Example, Princes took warning, and it obtain'd not only in *England*, but alſo in *France* and *Spain*, that the common Cuſtom of Kings, in aſſuming their Sons into a Share of the Government, was intermitted. Neither is any better effect to be hop'd for, from the nominating a Succeſſor, which formerly was ſeldom attended with good Succeſs. *Arthur* Duke of *Bretaigne* was deſigned Succeſſor by *Richard* I. but was Murdered by *John* who had Uſurp'd the Kingdom. *Mortimer*, was declar'd Heir by *Richard* II. and yet he Dyed in Priſon in *Wales*. So *Richard* Duke of *York* was own'd for the rightfull Succeſſor by the Eſtates in Parliament, and was to Reign after *Henry* VI. and yet he was afterward Beheaded. Wherefore ſeeing this declaring the Succeſſor, is never accompanied with any good effect either to the Perſon who nominates, or to him that's nominated, but brings many Evils along with it, it ought to be Forborn.

The Example of Henry II. *and of his eldeſt Son.*

An argument againſt the naming a Succeſſor from the temptation it affords him to wiſh the death of the poſſeſſor.

Moreover in the Civil Law, what things ſoever induce the wiſhing and longing for the death of other men, are declared to be void and unprofitable. For good men who were moſt Skilfull in all ſuch caſes, were clear for every man's enjoying freely his own right, as long as he liv'd, and for reſtraining the preſumption of ſuch as were over haſty, that no man might by his covetous or ambitious deſire, aſpire after any thing, before it was lawfully devolv'd upon him. For thoſe unlawfull deſires were the cauſes of Conſpiracies, Diſſentions, Jealouſies and Factions, by which the obedience due to the former Prince, and his power and authority were diminiſhed: At leaſt when they languiſh through diſeſteem the affairs of the Succeſſor become more proſperous, and their minds come to be ſo lifted up, that they ſcarcely can contain themſelves within

in the bounds of Decency. 'Tis natural for Princes in poſſeſſion of their rightfull Government, to have an averſion to their Succeſſors, that they may not be always haunted with the thoughts of their winding ſheets or funerals, or the ghaſtly image of Death. And therefore even the aſcendants and deſcendants in a ſtraight Line, among whom there ought to be greateſt evidences of Love and Benevolence, oft times the Son becomes hateful to the Father, while the Son endeavours to increaſe his own ſtrength, and to impair his Fathers; So as that Fathers have often projected the diſinheriting the firſt born, and of promoting their Second Son to the Succeſſion. Thus both *Charles* VI. diſinherited his Son *Charles* VII. and again *Charles* VII. purpos'd to diſinherit his Son *Lewis* XI. and preferr his Second Son *Charles*; and *Charles* VIII. had often reſolv'd to do the ſame againſt *Lewis* XII. who had taken arms againſt his own Sovereign, neither was the meeting of *Henry* II. the Son of *Francis* acceptable to the Father. And therefore they ſay, that the naming and appointing of Succeſſors is not expedient, but that they are to be left to their own right and to their fortune.

Reaſons for declaring the true Succeſſor.

Nevertheleſs many things uſe to be ſaid for the contrary opinion, and perhaps not without probable Reaſons. For ſeeing that from the Laws of the XII *Tables* which took the name of the moſt Ancient Law, it is provided, that *ſalus populi ſuprema lex eſto.* That is, *Let the ſafety of the people be the ſupream Law.* All our cares, and all our endeavours ought to be directed to that end, Neither ought ſuch Inconveniencies as uſe to happen, tho rarely to be ſo much minded, as thoſe things which concern the ſafety of the State and of the People. *Codrus* King of the *Athenians* is highly commended, for purchaſing the ſafety of the people with his own life, as alſo the *Decius's*, who by their deaths procured Dominion to their People. And the memory of a notable Prince, who has ſignaliz'd himſelf for ſome remarkable merit perform'd for the Common-wealth, is always moſt acceptable to the people. For whereas ſome doubts are now whiſper'd about, they may perhaps hereafter take vent, and come abroad, concerning lawfull and unlawfull Marriage, of Baſtards and Illegitimate Children, and about the Laws of the Kingdom, what they forbid, and what they ordain. So that nothing can be more for the intereſt and welfare of the Common-wealth, than the Final deciſion of this whole Controverſy, now while the Queen her ſelf lives, and in her own preſence.

1. *Becauſe it is for the ſafety of the People.*

2. *It prevents diſputes.*

Henry the laſt King of *Portugal*, who of a Cardinal was made a King, having no Children of his own Body, and perceiving that after his Death, there might happen a Grievous Conteſt among the ſeveral Claimants, about the Succeſſion, reſolv'd to have that important Queſtion determined in his own life time; And all the Competitors being cited, and the Reaſons, which each of them offer'd, being carefully examined, he was to have given Sentence and to have declared the Succeſſion, if ſudden Death had not prevented his Pious deſign.

The example of Henry *the laſt King of* Portugal.

Neither will the moſt Auguſt Queen be reckon'd to have made a ſuitable return to the Merits and Kindneſſes of her People, if for the Conſtant and Unblemiſh'd Fidelity, which the Subjects have hitherto inviolably obſerved to her, they be left to the Deſtinies and the Deciſion of the Sword. For who can be Ignorant if that Light, by whoſe Beams all *Britain* is now Enlightened, was taken away, that more than *Egyptian* Darkneſs will immediately overſpread the Land; all men will be

The Queen ſeems to be concern'd in return to the moſt dutiful behaviour of her ſubjects not to leave the affair of her Succeſſor undetermined.

be benighted and in Fear and Confuſion, to find themſelves Lye open to manifeſt Dangers, their Ship, the Common-wealth, in a moſt dreadfull Tempeſt, and in a moſt rough Sea without a Pilot; while the Mariners are by the Ears among themſelves, who ſhould ſit at the Helm, and undertake the Government of the Veſſel? For they who pretend a right to the Succeſſion, will joyn Arms alſo to it; nor are Laws and Reaſons ever wanting to ſuch as Strive for a Kingdom. Hence ſpring Factions among the People, while every man Favours his own Party: So all things will be full of Danger, the Lives and Fortunes of all will be in Hazard, and when any differences or Quarrels happen among them, the matter will not be decided by any other judicial Sentence, but by Devaſtations and Slaughters; Nor will they be under any other Judge but *Mars*, as it fell out lately in *Philip* II. King of *Spain*, when through a willfull miſtake, he reckoned that the Kingdom of *Portugal* belong'd to him. Therefore 'tis the part of Royal Wiſdom to provide for the Safety and Security of the People, that they may not ſheath their Swords in one anothers Bowels, and that the effuſion of Chriſtian Blood may be avoided; Which, if the matter comes once to be decided by Arms, will be inevitable, when the Competitors, in Challenging the Title each for himſelf, make War upon one another.

Neither is this deſignation of a Succeſſor without precedents; For from the Sacred Hiſtory, whence all Wiſdom may be drawn, it is evident that when *Moſes* underſtood that God had deny'd himſelf Entrance into the promiſed Land, he to ſhew his concern for the ſafety of the People in a time and place of the greateſt danger, pray'd earneſtly that the Lord might appoint a Succeſſor to him, and *Joſhua* was accordingly appointed by the Lord to Succeed *Moſes* in Leading the People into the promiſed Land. And *David* himſelf againſt whom ſo many Rebellions had been rais'd even by his own Sons, and who had been driven out of his Kingdom, and dethron'd by *Abſalom*, yet appointed *Solomon* to be his Succeſſor, and cauſed him to be anointed King, and ſet on the Throne, while he himſelf was Alive; that neither his own Sons, nor any others who might be ready to aſpire after the Kingdom, might be able to raiſe Tumults, or Rabbles among the People.

Levit. xxvii. Joſhua *appointed Succeſſor to* Moſes.

David *appointed* Solomon.

Deborah. *Deborah* in the Sacred Scripture, ſaid that ſhe was made a Mother in *Iſrael* when ſhe Judged the People; For to Judge the People, and to lead them forth to the War, were the two principal Functions of Kings; and therefore as I before obſerv'd, when *Deborah* Judged the People, ſhe performed all the Parts of the Kingly Office; And when ſhe ſaid, that ſhe was made a Mother in *Iſrael*, ſhe ſet forth the Office and Duty of a King, which is to mind the ſafety of the People, as a Mother has a moſt tender care and concern for the ſafety of her Children. But it follows in the Text, *my heart is toward the Governours of Iſrael*, or fix'd upon them, as if ſhe had ſaid, the Duty of a Prince or of the Father of the Country is, to uſe the ſame provident Care for Governours to the People after his deceaſe, as Parents commonly ſhow in appointing by their laſt Will Guardians or Tutors and Curators for taking care of their Children, after their own Death. What Parents can we ever hear of, who if they have plentifull Eſtates to leave amongſt their Children, will not aſſoon as Sickneſs ſeizes them, take care by their laſt Will of appointing Guardians for them. And Old Age it ſelf is a Diſeaſe. Therefore 'tis the part of a Mother in *Iſrael*, ſays *Deborah*, to

Judges iv.

have

have her Heart fixed and ſet upon the Governours of the People, and her care muſt be underſtood to have good effects even after her deceaſe, otherwiſe as we often ſee it fall out, after the Death of the Mother, Mutual conteſts ariſe, mutual accuſations, and at laſt Exiles, the Pillaging of their goods, diſſentions, untill all the Family, and all the Eſtate and Subſtance be brought to ruine: And what heavier Judgment can happen? To whom can the occaſion of ſo many Evils and Miſchiefs be imputed? Moſt certainly to the Father or Mother of the Family, who when they ought and cou'd have prevented ſuch Evils, took no care to do it; For which Impious Neglect or improvidence of theirs, their Names will be devoted to Curſes and Execrations. Neither is that of the Apoſtle 1 *Tim.* v. 8. To be paſs'd over in Silence, where he chaſtiſes them moſt ſeverely who provide not for their own, and eſpecially thoſe of their own Houſe or Family, he ſays in expreſs words, *that they have denied the Faith*, and that they *are worſe than Infidels*. Indeed an Excellent King is nothing elſe than a good Maſter of a Family, nor is a Kingdom any thing but a well ordered, tho an exceeding great Family.

The Uncertainty of the Succeſſor occaſions innumerable Calamities.

The ſame cuſtom was uſually practis'd in other Kingdoms and Families beſides *Iſrael*, eſpecially among the *Medes* and *Perſians*, whoſe King might not go to War, unleſs he had firſt appointed his Succeſſor. This is manifeſt in *Cyrus*, who being to undertake an Expedition againſt the *Scythians*, did according to the Ancient Cuſtom and Law of his Kingdom, firſt declare his Son *Cambyſes* to be his Succeſſor. And *Darius* the Son of *Hyſtaſpis* did the ſame, being to go to War againſt the *Ethiopians*, when he was put in mind to name his Succeſſor, according to the Law of the Kingdom; This gave riſe to that famous conteſt between the two Sons of that King, *Artabazanes* his firſt born, tho born while his Father was only a private man, and *Xerxes* his Second Son, but born after his Father was King, and *Xerxes* was preferred, as I obſerv'd before from *Herodotus*.

The cuſtom of the King's of Perſia *when they undertook any Expedition.*

The ſame Cuſtom was moſt commonly obſerv'd in the *Roman* Empire, when it was happy in having good and valiant Emperours. *Auguſtus* adopted *Tiberius* to be his Succeſſor, to prevent troubles in the Empire after his own death; yet not before *Tiberius* again had adopted *Druſus* and *Germanicus*, that the people might be at a certainty even as to a Second Succeſſor, whom they were to obey. The ſame *Tiberius* after the death of *Germanicus*, adopted his Son, *Caligula*, and afterwards *Claudius* adopted *Nero*. For adoption among the Emperours was nothing elſe but the declaring a Succeſſor. In like manner *Galba*, that he might appeaſe his enraged Army, reſolv'd to adopt *Piſo*, but they were both killed by the furious Souldiers.

The Roman *Emperours adopted their Succeſſors.*

Nerva, as *Dion* writes, during the ſhort time that he was Emperour, did that kindneſs to the *Romans*, as to adopt *Trajan* for his Son and Succeſſor, who, well knowing how profitable that was for the Common-wealth, did alſo himſelf Adopt *Adrian*, *Adrian* again *Antoninus Pius*, who alſo adopted *Antoninus* called the *Philoſopher*. Neither were the *Romans* ever more proſperous or glorious either in Peace or War, at home or abroad, nor their Empire more flouriſhing, than under thoſe Princes, who were all moſt wiſe and brave Emperours, and who believ'd that this one thing was chiefly for the Safety of the Common-wealth, to wit, that an undiſputed Succeſſor, who was fit to Govern, ſhould be appointed in their own life time. This

Dio. L. 68. & Aurel. Victor.

The appointing the Succeſſor in Spain.

This Cuſtom of appointing a Succeſſor derived it ſelf alſo to other Nations and obtain'd in *Spain*. For when a new King came to the Throne, and was any way apprehenſive of Tumults after his death, that he might cut off all occaſions of ſuch diſorders, he took care to have his Son, or ſome other who was next in Blood to him, declared his Succeſſor in the Kingdom. *Pelagius* who was the firſt, after the *Goths* had been driven out by the *Moors*, that recovered the Kingdom of *Galicia* to the Chriſtians, and the firſt alſo that made that Kingdom and *Leon* hereditary, appointed his Son *Favila* to be his Succeſſor; and again he Subſtituted to him *Alphonſus* ſirnam'd the *Catholick*, who was his Son in Law. This was the firſt King of *Spain* that aſſumed the name of *Catholick*, who having an abhorence of *Arrianiſm*, to which the *Goths* were too much addicted, did all he could to root out that Hereſy. Not many years after *Alphonſus* ſirnamed the *Chaſt*, declared the Son of *Veremundus* who was his neareſt Kinſman, in the ſolemn meeting of the Grandees, or *Cortes* of *Spain*, to be his Heir and Succeſſor. So did *Alphonſus* IV. his Brother *Raymirus*, and he again adopted *Ordonius*. Likewiſe *Henry* when he had poſſeſs'd himſelf of the Kingdom of *Caſtile*, his Brother *Peter* being killed, that his Son *John* might be ſecured of his inheritance, he took care to have him declared the true heir of the Kingdom, and his Succeſſor, and that all the people ſhould ſwear an Oath of Fidelity or Allegiance, as they call it, to his Son. And in this Age in which we live, *Philip*, II. took the ſame care of *James* his Eldeſt Son, and he dying ſoon after, of *Philip* who now reigns, forcing the people and the Grandees to take an Oath to both Succeſſively, which was much more than declaring his Sons, or one of them his Succeſſor.

And in France.

And in *France*, they who read the Hiſtory of it, will meet with ſuch like Examples. For *Hugh Capet*, who having driven out *Charles* of *Lorrain*, and transferr'd the Royal name and dignity from the Family of *Charles* the *Great* to his own, being affraid of the like Changes after his death, which he himſelf had known, caus'd his Son *Robert* not only to be appointed his Succeſſor, but alſo to be Crown'd. Neither was *Henry* I. leſs careful in this matter. For in his own life time, *Philip* tho' an Infant only of nine years of Age, was nevertheleſs receiv'd as heir of the Kingdom and Crown'd. And *Lewis* the Grandchild of the ſame *Philip*, cauſed *Philip* ſirnamed *Auguſtus* to be Crown'd in the year of God 1199[a] or thereabouts. From that time, whether taking warning from the Example of *Henry* II. King of *England*, or becauſe they were not affraid of any diſpute about their Succeſſion, the Kings of *France* abſtain'd from aſſuming their Sons into a partnerſhip in the Kingdom or Government.

[a] Annales Franciæ.

And in England.

Nevertheleſs the Kings of *England* did not refrain ſometimes, from Naming their Succeſſors, leſt an uncertainty in that affair ſhould become an occaſion of involving them in Calamities. The *Conquerour* appointed *William Rufus* to be his Succeſſor in the Kingdom, *Henry* I. his Daughter *Maud* and her Children, *Henry* II. his Son *Henry*, *Richard* I. his Nephew *Arthur* by his Brother *Geoffrie*, *Edward* III. declared *Richard* II. to be the true Heir of the Kingdom, and he *Roger Mortimer*. Thus *Edward* VI. being defeated, *Edward* Prince of *England* the Son of *Henry* VI. and upon failure of his Iſſue, *George* Duke of *Clarence*, and Son in Law of the Earl of *Warwick* were appointed Heirs of the Kingdom. Neither yet did

did *Richard* III. tho' a moſt wicked Prince, omit to ſubſtitute after his own Children, *John* Earl of *Lincoln* the Son of his Siſter *Anne* and of the Duke of *Suffolk*. *Henry* VIII. in three or four Parliaments appointed different Succeſſors. Yet at laſt he ſettled the Succeſſion, upon his Son Prince *Edward*, and after him upon his Daughters *Mary* and *Elizabeth*, all which reigned Succeſſively, according to the order that he had eſtabliſhed.

Calamities occaſion'd by the uncertainty of the Succeſſor.

We have all indeed lately ſeen, how many occaſions of Calamities happened in *France*, after the death of *Henry* III, who was villainouſly murdered by a *Jacobine* Monk, when ſome difficulties were made about the Succeſſor. Nay in thoſe Kingdoms which are called Elective, moſt Princes took care to have their Sons choſen, whilſt they themſelves were alive. The Emperour *Henry* got his Son *Otho* choſen King of the *Romans*, as did *Charles* IV. his Son *Wenceſlaus*, and ſome while after *Sigiſmund*. And *Charles* V. his Brother *Ferdinand*. And *Chriſtiern* IV. who at this day is King of *Danemark*, was appointed to be King in his Father's life time, and by means of his Father. By all which examples it's clear, that all wiſe and prudent Princes, when any ſtorm of Seditions and Tumults may be ſuſpected after their death, or as often as any other juſt cauſe, or weighty occaſion offers it ſelf, that they may the better provide for the ſafety of the people whom they entirely love, uſe to make all things ſo ſure, and take ſuch neceſſary precaution, as that neither *Doleman* himſelf, nor *Eris* the Goddeſs of Strife and Contention, who was upon the Reſentment, becauſe not invited to the Marriage of *Peleus* and *Theſeus*. can diſturb or overturn the Peace of the State. For it is not only peculiar to man, but alſo it may be obſerved of other living Creatures, that they uſe their utmoſt care, to preſerve the publick tranquillity, and the quiet and ſafety of their own Society; And the Father of the Country cannot be ſaid to have done his part, if he has neglected in time to Succour it in its diſtreſs, or has not uſed means to prevent it.

Even in Elective Monarchies ſome care is taken to appoint a Succeſſor.

But our Buſineſs being with the moſt Serene and moſt Auguſt Queen and with our Neighbours, we ſhall enquire in this place what were the Sentiments of her own Father, and of his People in this affair. We ſhall find that both Prince and People agreed in this, that nothing could happen, that could be more for the ſafety and Welfare of the Commonwealth or Kingdom, than was the certainty of the Succeſſor, and nothing could be more fatal than to leave all that matter to be decided by the deſtinies and the event. I ſhall only bring two Acts of Parliament, by which, if I am not deceiv'd, this whole Controverſy will be ſet in the cleareſt Light.

The Judgment of Henry viii *and his Parliaments in relation to the ſettling that affair of a Succeſſor.*

In the Preface of the XXII Act of that Parliament, which was held in the Twenty Fifth of the Reign of Henry VIII. *'tis propos'd to the King* in a moſt dutiful and humble manner, by the Lords Spiritual and Temporal, and the Commons, in Parliament aſſembled, *That ſince it is the Natural inclination of every man gladly and willingly to provide for the Security even of his Succeſſion, although it touch only his own private*

The Preface of the Act Concerning the King's Succeſſion anno 25. Regni Henrici viii.

private caſe; We therefore reckon our ſelves much more bounden to beſeech and Inſtant your Highneſs (although we doubt not of your Princely Heart and Wiſdom, mixed with a Natural Affection to the ſame) to foreſee and provide for the perfect Security of both you and of your moſt Lawful Succeſſion and Heirs, upon which dependeth all our Joy and Wealth as well as the publick quiet and happineſs; The Eſtates of the Realm reckon'd it therefore to belong to the King or to be a part of His Regal Office, to Settle the affair of the Rightful Succeſſion and to declare his undoubted Succeſſor; *and therefore*, ſay they, *they could not doubt of his Princely Heart, Wiſdom and Natural Affection to the ſame*, That is, to provide for the Security of Himſelf and his Heirs and Succeſſors, *in whom alſo is united and knit, the only meer true Inheritance and Title of this Realm, without any Contradiction. Wherefore we your ſaid moſt humble and obedient Subjects, calling to our Remembrance, the great Diviſions which in times paſt have been in this Realm, by reaſon of ſeveral Titles pretended to the Imperial Crown of the ſame, which ſometimes, and for the moſt part enſued by occaſion of ambiguity and doubts, then not ſo perfectly declared, but that men might upon froward intents, expound them to every man's ſiniſter appetite and affection, after their ſenſe; contrary to the right legality of the Succeſſion and Poſterity of the Lawful Kings and Emperours of this Realm. Whereof hath enſued great effuſion and deſtruction of Man's blood, as well of a great number of the Nobles, as of other the Subjects and eſpecially of Inheritors in the ſame: And the greateſt occaſion thereof hath been becauſe no perfect and ſubſtantial proviſion by Law hath been made within this Realm of it ſelf, when doubts and queſtions have been moved and proponed of the certainty and Legality of the Succeſſion and Poſterity of the Crown. By Reaſon whereof the Biſhop of* Rome; *and See Apoſtolick, contrary to the great and inviolable grants of Juriſdictions given by God immediately to Emperours, Kings and Princes, in Succeſſion to their Heirs, hath preſumed in times paſt, to inveſt who ſhould pleaſe them, to Inherit in other mens Kingdoms and Dominions*, &c. *And ſometimes other Foreign Princes and Potentates of Sundry degrees, minding rather diſſention and diſcord to continue in the Realm, to the utter deſolation thereof, than Charity, Equity and Unity, have many times ſupported wrong Titles, whereby they*

The Ambiguity of the ſeveral Titles to the Crown of this Realm, and the not eſtabliſhing of the Succeſſion thereof hath been the cauſe of much trouble.

they might the more Easily and facily aspire to the Superiority of the same; The continuance and sufferance whereof, deeply considered and pondered, were too dangerous and perillous to be suffered any longer within this Realm, and too much contrary to the Unity, Peace and Tranquillity of the same, being greatly reproachable and dishonourable to the whole Realm.

These are the very words of the Preface of this Statute, *Concerning the King's Succession*, from which these four things deserve to be remark'd.

Four things remarkable in the preface of that Statute.

First, the acknowledgment and Recognition of all the Estates of the Kingdom, *That the only meer true Inheritance and Title of the Crown of this Realm of* England *without any Contradiction, is united and knit*, that is, belongs undoubtedly to the most Potent Prince *Henry* VIII. *and to his Heirs*. This is the Chief Hinge upon which this whole Controversy turns, and on which the greatest stress of it lies. For if by an undoubted Right and undisputable Title, the Kingdom belonged to *Henry* VIII. whence come these Titles of the Kings of *Portugal* and *Castile*, or of the Arch Duke of *Austria*'s Spouse, of the Duke of *Burgundy* and others? Which of all them are within the Tenth degree in Blood to *Henry* VIII. But the most Serene Prince *James* VI. King of *Scotland* is the only person who represents *Henry* VIII. after the Decease of all his own Children, as being his Nephew in the Fourth degree by his Eldest Sister. What place can there be for those who are descended from the Second Sister *Mary*, as long as there is any Heir Remaining of the Elder Sister?

1. *The undoubted right was in* Henry viii. *and his Heirs.*

James VI. *King of* Scotland *is the only Representative of* Henry VIII. *after the decease of the Queen.*

The second thing to be observ'd is, That it ought to be the chiefest care and concern of all, and that it was the joint voice and most earnest desire of the Estates of the Kingdom, that perfect provision might be made as to the Successor to the Crown, to wit, that such an heir as by right, and according to the Laws of the Kingdom, might be declared, and assured of the Succession, that most lawfully belong'd to him. From whence 'tis evident, that all the *English* desired nothing so much, as that he only who according to the Constitution and Laws of *England*, and Justice has a right to the Succession, shou'd Succeed to the Crown, and no other person. No mention is made here of a last Will and Testament, no naming or appointing of a Successor at the pleasure or discretion of any person, which is not agreeable to Law and Right.

2. *The Parliament, unanimous desire of such a Successor as by the Constitution and Laws of* England *had an undoubted right.*

The third thing which the Parliament reckoned to be just in this affair is, That this next heir, *in whom is united and knit the only meer true Inheritance and Title of this Realm, without any Contradiction*, be declared by a publick Statute or Act of Parliament, that he may not only be secured by the common Right and Law of Succession, but also to prevent all controventing and wresting that Right by *men of frovard intents, expounding it according to every man's sinister appetite and affection, contrary to the right Legality of the Succession and Posterity of the Kings of* England, and that the people might not be led into so fatal an error, 'twould seem that at that time they thought upon this *Doleman* or them of his Kidney.

3. *That the next undoubted Heir might be declar'd by King and Parliament.*

Fourth-

4. That the neglecting to nominate the true heir had occaſion'd grievous calamities.

Fourthly that the neglecting to nominate and declare the Heir and Succeſſor, had often been the occaſion of great Calamities, and the effuſion of Chriſtian Blood of all Ranks and Degrees of people; Meaning, I ſuppoſe, that former conteſt between the Families of *Lancaſter* and *York*, which was not ended at laſt at a leſs expence, than the Blood and lives of an hundred thouſand men.

Would our neighbours then follow the meaning and purport of that Statute, as I think they ought, the moſt Serene King of *Scotland* ought to be named, and by a Particular Statute of Parliament be declared, the undoubted Heir and Succeſſor of the moſt Auguſt Queen, in caſe he Survives. For by this means Peace and Tranquility among the people, and a good underſtanding among the great men of the Kingdom, and a good agreement with their Neighbours, may be preſerved, which make all the difficulties of this diſpute diſappear.

Moreover when this ſame Invincible King *Henry* was making preparations for a deſcent upon *France*, in which expedition he alſo beſieged and took *Bulloigne*, before his departure beyond the Seas, his great care was, that in caſe he ſhould die in that expedition, acknowledging it to be only the pleaſure of Almighty God how long he ſhou'd live, the Succeſſion might be ſo well ſettled, that there might be no occaſion for Inteſtine and Civil Wars, as formerly upon the account of uncertain and diſputable Titles. He therefore nominated, and it was enacted by Statute, that after his death, his only Son Prince *Edward* ſhould Succeed him, and in caſe, it ſhou'd happen, that the ſaid Prince *Edward* ſhould deceaſe without heirs of his Body, the Lady *Mary* is ſubſtituted to her Brother, and the Lady *Elizabeth* to her. In that ſame Parliament, *Henry* VIII, in his Speech to both Houſes, had theſe words, *I know my ſelf to be a Mortal man liable to death as well as others, and I ſhould reckon all my Actions worth nothing, and not deſerving to be remembred, unleſs I took care of your quiet after my deceaſe, and that you ſhould not be entangled nor your Children embroiled with Seditions and Civil Wars; which will be unavoidable unleſs the Lawfull heir be declared in my life time.* This is a notable ſaying and worthy of ſo great a Prince; For it's impoſſible, but the Kingdom will be expos'd to Wars from abroad, or which is more dreadfull to Civil Wars in it's own Bowels, if the people be left at an uncertainty as to the Succeſſor.

Act of Parliament in 35 year of Henry viii.

The words of Henry viii. *in his laſt Parliament.*

Uncertainty as to the Heir of a Kingdom is the cauſe of infinite Calamities.

For to what end were Kingdoms made Succeſſive or Hereditary? Why were they appropriated to one Family, and to the firſt-born of that Family? Was it not to avoid Uncertainty, which ſpoils all our Actions; that it may not interrupt the publick Peace, and Repoſe of the Subjects, or give occaſion to Innovations and Confuſions? And indeed ſhould the moſt Auguſt Queen, after the example of her moſt Invincible Father, nominate and declare her undoubted Succeſſor, that Declaration would add to the many Glories of her Reign, in which ſhe has ſurpaſs'd all her Predeceſſors, by the Felicity of her Government, and real Vertues, and left them very far behind her. Neither would this deed be leſs applauded by Foreigners, and ſhe cou'd not fail of being remembred every where with Honour. But otherwiſe, where the Succeſſor in the Kingdom is not certainly known, into what Calamities muſt the miſerable Subjects neceſſarily fall? Slaughterings of men, Robberies, Rapes committed upon Virgins and Matrons, Plunderings and Pillagings of the Subſtance and Effects of the Country People, Dolefull Lamentations and

and Yellings. In a word what miſchiefs ſoever wicked men and ſuch as are under no Yoke, but free from all Magiſtracy, having nothing to reſtrain them, are capable to commit; So as the Kingdom ſhall ſuffer more in that one time of the Interregnum, while there is none to adminiſter Juſtice in the Kingdom, than what can be repaired in the ſpace of ten years after. Neither will theſe troubles and miſchiefs ceaſe all theſe ten years, but always like a *Hydra* ſhooting forth new heads, riſe up againſt him who ſeems to himſelf to have gained his point. How many Battels were fought between the Houſes of *York* and *Lancaſter*, and the Family which at length was victorious, at firſt was almoſt conquered. And *Richard* Duke of *York*, who had obtained ſo many victories, being overcome in one Battel loſt his head. Again *Edward* IV. who was victorious in a far greater Battel, was nevertheleſs forced to fly the Kingdom by the Earl of *Warwick*. Nay, which is almoſt incredible, the Family of *Lancaſter*, which had been ſo often ſuppreſſed, did yet break forth with great Splendour in *Henry* VII. and attained to the ſupream Power and Government of the Kingdom. Theſe are ſports of *uncertainty* as to the Succeſſor, all which might be prevented, if by any general Law the undoubted Succeſſor, was aſcertain'd of his Right, and that affair put beyond all diſpute. The ancient Poets feign'd *Pallas* ſitting by *Jupiter* repoſing himſelf, intimating to us that Wiſdom ought always to attend Kings in their Councils; For tho' they remain ſafe in their own Houſe, yet whoſoever takes due care of his Houſe, and of his own Family, and provides for the Peace and Welfare of it, after his own death, does the part of a good and wiſe man.

The objection concerning People's looking to the riſing Sun, anſwer'd.

Neither ought any to be Troubled at that which is commonly alledged for hindring men from making ſuch Settlements, *more People Worſhip the Riſing than the ſetting Sun.* They who Inhabit the Middle of *Africk*, uſe to Curſe the Riſing Sun, becauſe by it's Scorching Heat, it commonly Burns up all their Fruits, and this whole affair may be eaſily Tranſacted by Treaty, Agreement and Securities, as that during her Majeſties Life, her Succeſſor ſhall not ſet his Foot in *England*, nor intermeddle in the affairs of that Kingdom. For if ſhe being illuminated with the Rays of the Holy Spirit, ſhould for the Defence of her People which have always been moſt Obedient and Dutifull to her, Nominate her Succeſſor, all of them know very well whom ſhe will Nominate and declare; For they are abundantly aſſured of her Juſtice and Piety. Neither can ſhe ever be ſuppoſed Capable of Leaving her Name expos'd to the Curſes and Execration of the People, Groaning under ſo many Evils and Diſeaſes, in the Political Body: And yet there is no avoiding that by any other means, than Declaring the Rightfull Succeſſor; For when the Nobility and People come to be once in a uproar, and Engaged in Blood and War, when the Goods and Chattels of the Common People are driven and carried away, the puniſhment and butcheries of the Subjects who ſtirred up and fomented the Factions will enſue; how can it otherwiſe be, but that they will imprecate all Curſes upon her memory, who when ſhe could have prevented ſuch grievous evils, would not do it? Again if after her deceaſe, the People enjoy an uninterrupted Peace, ſo as the publick repoſe and tranquillity be in no wiſe diſturbed, then moſt certainly her Name will be honoured and celebrated as divine, and mentioned as ſuch by all men in after Ages, and in all Hiſtories; Becauſe in her own life time ſhe took

ſuch effectual care to begin and advance ſuch a laſting happineſs and union, and while ſhe had the opportunity and could bring it about, it will then be apparent her chiefeſt care firſt and laſt was the ſafety of her People; this will convince the World that their welfare was her deareſt Concern, ſhe having in this imitated in ſome meaſure the example of *Codrus* King of *Athens*, who generouſly preferred the Safety of the People to his own Life.

Neither is this delay to be imputed altogether to her, She is a Sovereign Queen, and Kings are often liable to Jealouſies and Suſpicions. She is a Woman and that Infirmity is common to that Sex, and now She is become ancient, and that age is conſcious to it ſelf of Infirmity, is Credulous, Fearful, and moſt full of Suſpicions, and when people are of a great Age, they are always apt to fancy themſelves neglected and forſaken. Nay while they are haunted with Fears, they reckon themſelves betray'd by every Body; All theſe things are therefore to be excuſed in her, as Infirmities common to perſons of her Dignity, Sex and Age. Neither are we to deſpair, but that as ſoon as ever ſhe can, ſhe will effectually prevent all ſuch approaching evils and miſchiefs. Which if ſhe does, this Eulogy will remain for ever among her innumerable great Qualities and Praiſes;

Elizabeth the moſt happy Queen of *England*, by Her Authority Compos'd and United *Britain*, formerly Diſagreeing, and Divided into Two parts.

The memory of Princes who have deſerv'd well of the Commonwealth is moſt ſavory with Poſterity.

For that Princes how great ſoever their Power is, and tho' they are not ſubject in their life time to the Judgment of any but of God; yet He, while they live, ſollicites, and ſtirs up their Conſciences, if they omit to do what they ought; And after their death they leave a grateful or unſavoury memory of themſelves with Poſterity, according to their merits or demerits towards the Commonwealth, tho' whiles they lived they took to themſelves never ſo ſwelling or arrogant Titles.

Three Ptolomies, *on was called* κὲραυνος, *another* Ἐυεργέτης *and the third* φολοπάτωρ.

The three *Ptolemies* Kings of *Egypt*, tho in their Reigns they aſſumed the Sirnames of *Thunderer*, *overthrower of Towns*, and *Beneficent*, yet becauſe one of them Murthered his Brother, another his Mother, and the Third his Father, after their Death the Subjects of thoſe Princes Treated them with the utmoſt contempt, and Branded their Memories with Names of perpetual Infamy. For by way of Irony they gave to one of them the appellation of *Philadelphi*, to another that of *Philopator*, and the third they called *Philometor*. But the *Bactrians* had ſuch an entire affection and honour for their King *Menander*, upon the account of his Juſtice and Probity; And above all things becauſe he had left ſo good an opinion of his hearty good will towards his Subjects and People, that there were great conteſts among them, which City ſhould have the honour of having his Body and Monument in it. That of the Emperour *Aurelianus* is taken notice of and highly commended in all Ages, who having Beſieged the Town *Thiana*, and ſuffered many Injuries from the Inhabitants and the Garriſon, Swore that he would not leave ſo much as one Dog in the City. The City being taken ſoon after, when the Souldiers were reſolved to ſpare none of whatever Age or Sex, and the People expected nothing but the greateſt Severities and Terrible De-

The notable deed of the Emperour Aurelianus.

ſtruction

struction, from an Angry and Incensed Emperour, the Emperour ordered that none of them should be killed, and when his Army put him in mind of his Oath, which ought to be kept Inviolate, he Commanded that all the Dogs should be killed, and the People preserv'd. This his Extraordinary Clemency toward that Miserable People, was so gratefull to Posterity, and to all Ages, as that no time, no Oblivion will be able to efface the Memory of it. And as the Conquerour, and other Kings of *England*, have acquired Immortal Fame and Glory, by their Fortitude and great Exploits in War: So the Queen, by being the Author and Procurer of this most happy Union, will thereby leave a most Fragrant and Blessed Memory of her self to all *Britain*.

Vopiscus in Aureliano.

CHAP. XVIII.

A Paræneſis or Addreſs to England *to lay hold of the benefit of the preſent occaſion, and to agree to the Concord of all* Britain.

THE Ancient *Grecians*, when in their Familiar Converſation among themſelves, they diſcourſed of *Bœotia*, a Country which belonged to the *Thebans*, or as they Travelled through that Country, and the Monuments of moſt Bloody Battles, which had been Fought in it, preſented themſelves to their View, uſed to call *Bœotia*, the Theater of *Mars*, becauſe in it, as upon a Vaulting Stage or Theater, *Mars* uſed to preſent his Tragical Spectacles. They were in the Right, for *Bœotia* was Noble or rather infamous for many moſt Bloody Battles. At *Plataæa*, in *Bœotia* a Battle being Fought between the *Grecians* and *Perſians* *Pauſanias* and *Ariſtides* Commanding the *Athenians* and *Lacedæmonians*, *Mardonius* was Slain and with him Three Hundred Thouſand *Perſians*. And *Thermopylæ* in *Bœotia* was Famous, upon account of the Slaughter of *Leonidas* King of the *Lacedæmonians*, and Twenty Thouſand *Perſians*. And at *Leuctra* a Village in *Bœotia*, the power and puiſſance of the *Lacedæmonians* was quite deſtroy'd, *Cleombrotus* their King being Killed. And at *Cheronæa* in *Bœotia*, the *Athenians* and *Thebans* were overthrown in a Memorable Battle by *Philip* King of *Macedon*, and from that time the Liberty of *Greece* was greatly impaired.

Beotia *famous for many Battles.*

Now if any man will turn his Eyes from that Ancient *Bœotia* to our *Britain*, he will not only call it the *Orcheſtra* or Theater of *Mars*, but the Native ſoil, the Habitation, the Preſence, the Cloſet of *Mars* himſelf, and Finally the Altar foaming with the blood of *Mars*, upon which our Anceſtors were wont to Sacrifice to that bloody God with humane Sacrifices. I paſs over what fell out in the times of *Julius Cæſar* and *Caſſibelaunus*, and the Bloody Battels which were fought in *Britain* under the Emperours, *Claudius*, *Domitianus* and *Severus*, let us look back to the riſe

Britain *ſtain'd with bloodſhed in many moſt deſtructive battles.*

riſe and beginnings of the *Engliſh Saxons*, who, (while the *Britons* were diſtreſſed by the power of the *Scots* and *Picts*, pretending to come to their aſſiſtance) turn'd their Arms againſt the *Britains* themſelves, and after continual moſt bloody and deſtructive Wars, for the ſpace of five hundred years and above, they firſt drove them into *Wales*, and afterwards brought them under Subjection to themſelves. Neither did the *Engliſh-Saxons*, during the whole time of the Heptarchy, abſtain from mutual Slaughters and Butcheries among themſelves. And whether their aim was for Glory, or they ſtrove to find out new ſeats and poſſeſſions, the *Danes* firſt ſet upon them and then the *Norwegians*, who almoſt exhauſted the remainder of Blood that remain'd unſpilt in *Britain*. At laſt the *Normans* being victorious in a moſt bloody battel, took upon them the Royal name and dignity. I let paſs the Nation of the *Picts*, famous for their Wars againſt the *Romans*, and the overthrow and Slaughter of *Egfred* King of *Northumberland* with his whole Army, which Nation nevertheleſs was entirely rooted out by the *Scots*. And what battels were fought by the *Edwards* I. II. and III. after the Conteſt about that execrable Homage was ſtarted, which was not at laſt expiated but by the Slaughter of three hundred thouſand men, with almoſt the utter ruine of *Britain*. And not long after thoſe Wars, followed that moſt bloody diſpute between the Houſes of *Lancaſter* and *York*, in which not only above fourſcore Princes of the Blood Royal on both ſides, were either ſlain in Battel, murdered in Priſon, or executed on the Scaffold; but alſo a hundred thouſand men periſh'd in thoſe Wars. In ſo much that at this day, there is no Village, Scarcely any Brook between the Rivers of *Humber* and *Forth*, no place upon which one can ſet his foot, which has not and retains not ſtill its name from the overthrow and deſtruction of Armies, no piece of ground but was fatten'd with the Blood and Bodies of the ſlain, in which, to make uſe of the ſaying of the Poet,

Oſſa Peremptorum reſonant immania Regum.

Vaſt Bones of Slaughter'd Kings, that on the Ground
Lay ſcatter'd, to the Skies do ſtill reſound.

Such as read the Hiſtories of *France* or *Spain* will meet with no ſuch Inſtances, they are light in Compariſon with thoſe which *Britain* has afforded, unleſs haply while that ſtrife laſted between the *Spaniards* and the *Moors*, not which ſhould reign, but which ſhould live, moſt deſtructive, tho leſs frequent Wars, ſhall ſeem to have interven'd. Thoſe horrid whether Spectacles or Monuments of paſt actions, as oft as they preſent themſelves to our Eyes or Memories, ought to bend and mollify our Iron hearts, that we may at laſt unite our endeavours for obtaining the common agreement, or rather the common ſafety of all *Britain*; And engage us to do our utmoſt for attaining this end. But ſeeing what things are now paſt are more capable of being blamed than remedied, for the future we ought to conſider how we may cure this inveterate evil, and which is now become almoſt Natural: And how or by what means for the time to come, we may appeaſe the Divine Vengeance, For God from his own mouth hath curſed the Earth for ſo much humane Blood having been ſhed upon it. I take our true way to be, moſt humbly by our Tears and Prayers to deprecate the wrath of God, and to implore his forgiveneſs, and laying aſide all grudges againſt

Gen. iv. Numb. xx. 16.

gainst one another, all Rage and Cruelty, to listen to and embrace healing Counsels and Methods for the future, and lay hold on the present opportunity of uniting and reconciling both parties. And to acknowledge the goodness and hand of God going along with us in this affair. But should we be wanting to our selves, when God of his infinit goodness puts this opportunity into our hands, such another occasion, of Establishing a firm and lasting Peace between the two Nations, may be in vain hoped for for some Ages to come. For it is the temper and fate of men void of Skill and Conduct in affairs, to let the present opportunity slip, to be griev'd for having lost it, and to wish for it afterward in vain.

The Commendation of Crete.

When *Aristotle* praises *Crete* for it's noble Situation, and the number of it's harbours, so convenient for all the Seas; For it is a short way from *Peloponnesus*, and not farther from *Asia*, and *Africa*, and the Greeks inhabiting the Sea Coasts, he made no scruple to assert, that *Crete* should some time or other obtain the Empire and Command of *Greece*. Neither is it to be wondered at, says he, that *Minos* King of the *Cretians*, brought all the Neighbouring inhabited Islands under his Subjection, and took care to furnish the rest with Inhabitants, and at length attacked *Sicily*, in which place he died. *Aristotle* seem'd indeed to me while I read this to have described our *Britain*, which for numbers of People, and it's famous Harbours, does far excell *Crete*. And as the last is conveniently seated for Commanding all Countries upon the Mediterranean Sea, so is our *Britain* also well Situated for commanding *Norway*, *Denemark*, *Friseland*, *Holland*, *France* and also *Spain* it self. And yet the bounds of it's Empire are not enlarged in these opposite Countries; many brave attempts have been made, but the event has not been answerable to such beginnings. They did not want Courage and Bravery, nor good Armies, nor Riches for the maintenance of those Armies; One *Minos* was wanting, one King in this whole Island, to restrain by his Authority the *British* disagreeing and fighting among themselves, and to keep them in order. Now while the parts of *Britain* were divided into different Kingdoms and Interests, or as there are in it disagreeing inclinations and designs, and hostile Commotions and disorders on both sides, we may despair of enlarging it's Empire, it will be enough if we can defend our own. 'Tis well known what the nobleness of this *Island* has procured, how it has invited in needy Mercenaries, and such as wanted fertile Countries of their own, as formerly it did the *Danes* and *Norwegians*, and how intestine broils rais'd their Courage, as knowing that they were only to fight against one half of *Britain*, and that the other half would either afford them assistance, or at least be unconcerned Spectators of other peoples dangers. Nay should any mischief befal them, they might hope for a most safe retreat with the other Party. When Foreigners, I say, see us in this Condition, 'tis wonderful what Courage it inspires them with. But there is no occasion for a Foreign Enemy, when we our selves fall upon our Swords, and watch for the ruine of the opposite Party, as oft as an occasion offers it self. One party exercises more cruelties upon the other than any Foreign Enemy, and one always grudges the other any occasion of growing greater; one endeavours to retain, and the other to extend its Dominions right or wrong; when one is successful in any enterprize, and seems to it self to be in a Triumphal Chariot having acquired Glory, the other is very industrious to lessen and detract from it.

Aristoteles. cap. 8. lib. 2. πολιτικῶν.

Many things have been prosperously attempted by the British.

Nothing is wanting to the happiness of Britain *but one King.*

Lewis XII. King of *France*, when hard put to it in the War with *Henry* VIII. who was victorious, he gave this Anſwer to them who were conſulting with what Forces they were to oppoſe the *Engliſh*, I have, ſaid he, the *Scots* ſo engaged to me by Treaty, ſo bound by good Deeds, that whenever I pleaſe, I can make uſe of them as of a Dart againſt the King of *England*, to draw him back out of *France*. Thus while we deſire to gratify others we ruſh upon our ſelves, and at the pleaſure and for the benefit of others, we exerciſe butcheries among our ſelves. He who is truth it ſelf and cannot deceive, ſaid, *Every Kingdom divided againſt it ſelf, is brought to deſolation.* *Matthew* XII. 25. Neither can *Britain ſerve two Maſters*, without ſuffering moſt grievous Convulſions. Whoſoever therefore wiſhes the ſafety of *Britain*, and that it may be delivered from its greateſt evil, ought to endeavour, that this inteſtine diſſention, which devours its very Bowels, may at laſt be quite removed, ſeeing, according to the Proverb, *Concordia res magnæ creſcant, diſcordia dilabantur*, By good agreement great Riches are ſtill increas'd, but they decay by diſcord.

Matth. xii.

Britain has hitherto been very remarkable by having two Kings, or rather having two Tops or Heads ſtanding up above the reſt, and who have been Enemies to one another; and ſo was like that Monſter with two Heads, which had only one Body, ſuch a one *Auguſtine* informs us was ſeen in the Eaſt, a little before he himſelf was born. But ſeeing in this very Century, ſuch a prodigy appeared alſo in our Country, and by that Spectacle God ſeemed to upbraid all *Britain* with its inteſtine diſcord, and to preſent it to their View, that by that Example we might at laſt grow wiſe, I ſhall give you a deſcription of it briefly from Mr. *George Buchanan*, who ſaw it himſelf. 'That Monſter, ſays he, under the Navel 'differed nothing from the ordinary ſhape of a man, but above it the 'Trunk of his Body and the reſt of the Members were double and di'ſtinguiſh'd from one another, both by their appearances and by their Actions. 'This ſtrange Creature did King *James* IV. take to have diligently Educat'ed, and Inſtructed in Letters, and chiefly in Muſick, in which he became 'a Wonderfull proficient, he learned alſo diverſe Tongues, yet having 'different Wills, when they diſagreed, the two Bodies beat againſt one 'another in the mean while Scolding, whilſt one deſired one thing, and 'the other another. At other times they adviſed together. This was 'alſo Memorable in it, that when the Legs or Thighs were prick'd or 'hurt, both Bodies were equally affected with the Pain, but when it 'was Wounded above the Navel, the pain was felt only by one of 'them. This Monſter lived all the time of *James* the Fourth's Reign, 'and ſome Years after his Death; One of the Parts which were double 'dying ſome Months before the other, the ſurviving part Decay'd by 'little and little with the pain, Corruption and Stench of the Dead 'Body.

Auguſtinus cap. 8. lib. 18. de Civitate dei.

Buchananus lib. 13. rerum Scoticarum.

This double headed Monſter compared to Britain.

'Twould ſeem that God Almighty intended to repreſent to our Eyes by this Prodigy the State of *Britain*, which this Monſter did greatly reſemble, unleſs in this, that both thoſe Heads, tho' they were at variance ſometimes, and did not agree between themſelves, yet at other times they conſulted together; which was never as yet done by the two Heads of *Britain*. God deſigned, I ſay, to upbraid the ill agreement, and the inbred Rage and Fierceneſs of exerciſing Cruelties on our ſelves, and Threaten the ſeverity of his Judgments, unleſs we, being thus admoniſhed

ed repent and amend our doings. For ſuch ſtrange Monſters are no where Born, neither do unuſual Signs and Wonders appear in the Air, but they foretell the Imminent Judgment of God, and indeed very Grievous ones ready to fall upon a People. What elſe could it Signify when two Heads contending together, did ſpring from the ſame Body or Belly, which ſupplied them both with Nouriſhment, but *Britain* the Common Mother's bringing forth two Kings, continually Fighting one with another, whilſt one of them cannot Bear an Equal, nor the other a Superior, and committing great Cruelties on their Common Mother? The Iſſue of this conteſt will be the ſame with that of this Monſter, as that one Head being Cut off, the other will alſo ſoon Decay and Die.

Another meaning of that Monſter.

Others are of Opinion that God has forewarned us by that Monſter of what was to come to paſs, to wit, that ſometime or other by means of that moſt happy Marriage between King *James* IV. and *Margaret* the Daughter of *Henry* VII. both Heads of *Britain* ſhould not long after become one Body, and have the moſt Beautifull form of a Humane Body; And that the Diviſion which heretofore has been ſo Fatal, and deteſtable to all good men, ſhould be healed and united at laſt in the Iſſue of that Marriage. For downward the Trunk was one and the ſame, tho upwards it was divided into two Breaſts, and that Monſter's having Surviv'd the King, portended that the moſt happy Union of *Britain*, was not to be attain'd in his Life time, but in his Poſterity. But whether by this Monſtrous ſtrange thing, God intended to intimate to us, What was to come to paſs afterward, or, what I rather incline to think, to upbraid the Inhabitants of *Britain* for their Impiety againſt God, and their Cruelties againſt one another, and againſt their Common Mother; 'tis certain enough that ſuch ſtrange appearances never come in our View, but for our Admonition and Warning; and that they are never ſent in vain, but bring after them the Judgments of Almighty God, as may be obſerv'd from *Joſephus* in whoſe Hiſtory the Prodigies, which fell out before the Siege and Deſtruction of *Jeruſalem*, are recorded.

The meaning of the Three headed Geryon.

The Poets had another meaning of the Three Headed *Geryon*; For Three Brothers of that Name are ſaid to have Reign'd together in *Spain* in ſuch perfect Unity, that they ſeem'd to have one Soul, one Will, and one Body. And thus it denoted the equal Government of Three Brothers. *Britain* therefore ought to have the true Form of a Man, or rather of a Virgin, and the Two Heads and Names of deſtinction, and hatred being taken away, one only Head which may Govern the whole of it, is to remain, ſo that for Figure and Gracefull Comelyneſs, ſhe may not be put to the Bluſh, when compared with the Neighbouring Provinces.

The notable ſaying of Cerbanus *to* Cyrus *about the number of the Sons of the Sun.*

When *Cyrus* was making preparations for an Expedition againſt the *Maſſagetes* or *Scythians*, he adviſed with his Councel, concerning the aſſuming his Son *Cambyſes* into a Partnerſhip with himſelf in the Government of the Kingdom. *Cerbanus* one of his Chief Counſellours told him, that it was not expedient to make his Son Sharer in the Government of the Kingdom with himſelf, affirming that one Sun Enlighned and by it's influences Cheriſhed the whole World, but that two Suns would Burn up the Earth. *Cerbanus* perhaps alluded to that *Æſopick Fable*, when the Sun in a Council of the Gods conſulted the reſt of the Gods, and particularly *Jupiter*, about Marrying a Wife, while all of them gave their conſent to this Propoſal made by the Sun, *Momus* alone op-

oppos'd it. For ſaid he, 'twould not be for the intereſt of the World to allow the Sun to be Marri'd, becauſe by that Marriage the Sun would beget ſeveral Children, to wit, ſo many Suns, from the Vehement Heat of which the World ſhould be ſoon Burnt up; ſeeing at preſent it's hardly able, to endure the Beams and Scorchings of one Sun. *Momus* certainly thought, that 'twas Eaſier for the World to Endure two Suns, than for own Throne two Kings. Nay tho' they were never ſo nearly ty'd to one another by the Bonds of Blood and Nature.

Lucan. lib. 1.

——— *Nec longe exempla petentur*
Fraterno primi maduerunt ſanguine muri.

The Proof's at hand; where the firſt City ſtood
The Walls were founded in fraternal blood.

And as the ſame Author tells us, *Exiguum Dominos Committet inter ſe Aſylum*, a ſmall Sanctuary, will ſet the Lords of it together by the Ears, as it happen'd between the twin Brothers *Romulus* and *Remus*.

Was *England* to have it's Heptarchy again, and the *Britons* the Ancient Kingdom in their own Country of *Wales*, the *Scots* retaining their Ancient Kingdom of *Scotland* which they derive from their Anceſtors, nothing could ſo much gratify, nothing could be more pleaſing or acceptable, to our Neighbouring Nations or Kings. For it could not otherwiſe be, but that among that Multitude of Kings, perpetual Jarrs and Diſſentions would happen, as fell out formerly in the Heptarchy. Nay perhaps the Butchering of Kings, as befell *Penda*, *Oſwald*, *Egfred*, and ſome other *Saxon* Kings. 'Twas common indeed for the *Scots* Kings to be Slain in Battle during theſe Diviſions and Diſcord; in this Iſland, the *Danes*, the *Norwegians* and at laſt the *Normans*, play'd their own game, and they attack'd each one after another, which they had attempted in vain, had theſe Kingdoms been united under own head; And what has formerly been done may be acted over again. All poſſible care and precaution ought therefore to be taken, that *Britain* lie not open or be not expoſed, to the injuries and inſults of Enemies; leſt its fate be the ſame with that of faulty Buildings, while the parts of them are divided from one another by Gaps and Chinks, the whole Buildings fall together to the ground, and become a heap of Rubbiſh; and we again preſent the Neighbouring Nations who watch for our overthrow, and would not fail to make advantage of our miſeries, with a Scene ſo pleaſing to them.

Singula per partes Carpebant.

The Interview between Henry viii. *and* Francis I. *near* Calais.

When *Henry* VIII. King of *England* being to have an Interview with *Francis* I. King of *France*, and the place for that Conference being appointed between *Calais* and *Ardres*, and both Kings ſtriving to excell in Pomp and Magnificence, *Henry* cauſed a wooden Palace to be carried over from *England* of a noble appearance, and ordered it to be ſet up in that Plain. In the outer Gate or Frontiſpiece of this Palace, ſtood the Statue of an Archer, holding a Bow in one hand and an Arrow in the other, with this Inſcription (*Cui adhæreo præeſt*) that is, the Prince that I take part with or whoſe intereſts I eſpouſe carries it; For at that time there were great animoſities between the Emperour, *Charles* V. and the *French* King, and both of them endeavoured to draw the King of *England* to their ſide, which *Henry* tacitly inſinuated by that Fron-

Frontiſpiece, which he had caus'd to be put on the Entry of his Palace. That made deep impreſſions on the minds of the *French*, who were preſent at that Interview, and viſited the King and *Engliſh* Nobility, and were highly incenſed at the ſight of ſuch an Eulogy as that written in golden Letters. But eſpecially the great heart of that Magnanimous Prince King *Francis* I. was ſecretly exaſperated, and inflam'd with Indignation and Reſentments, thinking it was deſigned to upbraid his weakneſs, as being unable to oppoſe the Emperour without the aſſiſtance of the *Engliſh*. So all the things, for which that meeting was appointed, being diſpatched in haſt, the Kings took leave of one another, diſſembling their reſentments handſomely enough, tho' they were both vexed at the heart; neither did that Peace which was made between them laſt long, but the War was ſoon renew'd between the *Engliſh* and the *French* Kings. I heard often from *John Lord Borthwick*, a Nobleman, whe at that time was in the Retinue of the King of *France*, and Maſter of the Ceremonies, that King *Francis* exclaim'd mightily againſt the inſolence of *Henry*; How much would this *Engliſh* King, ſa d he, be puffed up with Pride were he poſſeſs'd of all *Britain*, who aſſumes ſo much to himſelf, when he is Maſter but of one half of it only? And the ſame noble Perſon reported that *Francis* never forgot, but ever kept in his mind that Emblematical *Archer*, which made him always uſe his utmoſt endeavours to prevent the Union of the two Kingdoms in *Britain* under one head.

Paulus Jovius lib. 20. Holinſhed. *in* Henry viii.

And when the ſame *Henry*, a moſt wiſe Prince, had afterwards formed a deſign in great earneſt for compaſſing that Union, and was reſolv'd to beſtow *Mary* his only Daughter at that time, who was educated, as Heireſs of the Kingdom, upon King *James* V. in Marriage, King *Francis* prevented that Marriage and gave him his own Daughter *Magdalene* for his Wife. But that Marriage being of a ſhort duration, for *Magdalene* ſoon after her arrival in *Scotland*, being of a weak and tender Conſtitution of Body, died; whereupon *Henry*, who was a great lover of *Britain*, and a King of great wiſdom, reſumed the ſame deſign. Purſuant thereto an Interview and Conference was appointed to be held at *York* between the two Kings, but partly through the perſwaſion and promiſes of the King of *France*, and partly by the ſollicitations and allurements of the Pope of *Rome* himſelf, and of the Eccleſiaſticks (who at that time had a great intereſt in that Kingdom) the King of *Scotland* did not conſent to meet at the place appointed. For both the Pope and the Church men were affraid, leſt *Henry*, who had changed the face of Religion, and of the Eccleſiaſticks in *England*, ſhou'd attempt to have the ſame alterations made in *Scotland*. This occaſioned anger, miſunderſtanding and animoſities between the Uncle and Nephew, and ſoon after open War broke forth, to the great deſtruction of both Nations, but the *Scots* ſuffered moſt in that War.

The meeting of the Kings Henry *and* James *which was deſign'd to be kept at York was defeated by the crafty treachery of the Papiſts.*

I have taken notice of theſe few inſtances, that all of us may be convinced that nothing can happen more to the Satisfaction of our Neighbours or to our own hurt than many Kings in *Britain*. Nay if inſtead of Kings, ſo many little Sovereign Lords as there are Counties, were ſet up: For what was it, ſaid *Tacitus* that Subjected *Britain* to the power of the *Romans*, but the multitude of Kings in it? *Nam dum Singuli pugnant, & nihil in Commune conſulunt, omnes vincuntur.* Whilſt each of them fights, and nothing is undertaken by them in concert, they are all

The multitude of Kings in a Country is the occaſion of the greateſt evils.

Tacitus in vita Agricolæ.

overcome. What was it that procured the expulſion of the *Moors* out of *Spain*, but the numbers of their independent Lords, which were as many as there were Countries in it; Nay they were almoſt equal in Number to their Towns? Some of them made War upon others, and ſome obtain'd Peace for ſome time with their Enemies, while the Chriſtians in the mean time carried on the War under one Lord or Head, and attack'd others of their Enemies with their whole Strength. We ought to be admoniſh'd by ſuch examples, that *Britain* can no more endure two Royal Thrones, than the Earth can two Suns, or one Solid Well proportioned humane Body two Heads. Wherefore let us agree together, if we be wiſe, For united powers or forces are ſtronger, than while they continue diſunited, and ſtrike the Enemy with greater Terror, and are more for the ſecurity of the Subjects. And tho' that too late Wiſdom of the *Phrygians* is condemned; yet no way to Wiſdom is late, and 'tis better to be wiſe at laſt than never, and that all the former cauſes of offences being forever remov'd, the affections of both Kingdoms, and of the men who inhabit them be reconciled, and be cemented together under one head, as a pledge of their Friendſhip. And nothing indeed could be wanting to compleat our happineſs, nothing for the publick Safety, or that of every private perſon, if after having endured ſo many horrible Tempeſts, and even now finiſh'd our Voyage, we at laſt take down our Sails, and being wearied with the fatigue of it, repoſe our ſelves in that ſafe Haven, which has been ſo often and earneſtly longed for by both Kingdoms.

The late wiſdom of the Phrygians.

The preſent opportunity of this Union ought by all means to be embraced, at a time when it offers it ſelf to us, if it retires a little we ought alſo to follow hard after it, but ſhou'd it take wings and fly away, we ſhall afterwards in vain with moſt fooliſh and fruitleſs wiſhes ſtrive to catch it. For that is the State of men who are abandoned of God, that they refuſe the bleſſing of God for the preſent, they grieve for having loſt it, and can never recover it. Occaſion or Opportunity, as the Poets feign'd, is bald behind, if it ſlips through their hands, who ought to lay hold on it, their endeavours to retrieve it, will be in vain; For Nations which are by Nature and Exerciſes hardy and Warlike, and ready to take Arms, (and ſuch the Kingdoms in *Britain* are) cannot be kept long in their duty, and the ſeeds and fuel of diſſentions among Neighbours is always at hand, unleſs there be one who by his Power and Authority can reſtrain them. And ſhou'd we loſe this preſent opportunity, the Union and conſequently the moſt happy and flouriſhing State of this noble Iſland under one King may for ever be deſpaired of.

The preſent opportunity not to be neglected.

For ſhould any other beſides the moſt Serene King be allow'd to receive the Crown of *England*, whoſoever this perſon be, he cannot promiſe himſelf any quiet nor aſſure himſelf of any Security, but by the Ruine of the moſt Serene King, to whom he has done the greateſt Injury, by invading and Uſurping his Inheritance and Patrimonial Eſtate; and being Conſcious to himſelf of having poſſeſs'd what is another mans, and of right belongs to another, he will be affraid of all men and of all things, as is uſual with them who are conſcious to themſelves of having wronged their Neighbour; The Furies will continually infeſt him, the night will be grievous to him, and make him long for the light, and again in the day he will call out for the night, as hoping it may afford him ſome repoſe; nay indeed his Life will be more bitter to him,

The life and Reign of a King who is not lawfully called to the Kingdom is unquiet.

him, than the ſuffering ſuch violence offer'd to his Conſcience, and ſuch innumerable inward racks and tortures night and day, laſhing him continually with their Stings and Scourges. Kingdoms acquired by violence and fraud or wickedneſs are not to be laſting, and few who, by violence have uſurp'd the Kingdoms of other men, have long eſcap'd, but rather periſh'd by a ſevere and tragical Deſtruction. *Let no man take this honour to himſelf*, ſays the Apoſtle, *but he who is called of God as was* Aaron. For he can never enjoy quiet in his mind, he can never be himſelf, he will be jealous of every thing, and of every body, if from any quarter any miſchief that threatens may be prevented, and the leaſt noiſe of the flying of a Bird or the ſhaking of a Buſh, is enough to affrighten and fill him with horror. He will be always haunted with the thoughts of his powerful Rival, as if he ſaw him with his Eyes, and will tremble to hear any diſcourſes of him, tho' within the Gates of his own Court; And he can never be at eaſe, untill he has left nothing unattempted, by which he might hope, if poſſible to have him taken out of the way. Hebr. V.

But on the other hand the injured Prince, will have his recourſe to juſt and lawful arms, as being neceſſary both for his own defence, and that he may repair the injury which he has ſuffered; He will require the aſſiſtance of his ancient Friends and Allies, make new Leagues, and the memory of former Calamities will be rubbed up, and theſe old wounds every where made, as it were, to bleed a freſh. Lamentations and doleful howlings, ſpread over all the Countries, will inflame thoſe ſores, and ſtrengthen the reſentments and indignation of the Subjects. Neither will there be an end of the Calamities under theſe Kings, but the hatreds will become Hereditary, and be continued to their Poſterity, and can never ceaſe but by the utter Deſtruction and Extirpation of one of the contending Parties. This would be a moſt pleaſant Spectacle to the Neighbouring Potentates of *Britain*, that ſo their Subjects who Covet, above all things, the Houſes and Eſtates of other men, might not fail to obtain them. The minds of ſuch, as God has appointed for Deſtruction, are Judicially Blinded; And that which uſes Commonly to be ſaid, is moſt true, that all kind of Miſchiefs ruſh upon thoſe, (who being forſaken of God are left to their own Counſels,) like a Body of Armed Men, and make a Strong Impreſſion upon them. Wherefore it is our part, to beg of God, who alone can do all things, and who is the Author of Peace and Concord, that he may Vouchſafe to grant that mind to all *Britain*, by which they may at Length be induced among themſelves to paſs over and Trample under their Feet, all Hatreds and all the Cauſes of Hatreds, that being at laſt Wearied with ſo many Toils and Calamities, they may be in Love with this preſent Union, and when they come once to be fond of it, now that it offers it ſelf to them, they may with all thankfullneſs Hug and Embrace it.

The providence of God is moſt remarkable in this work.

'Tis certainly the Part of every good Chriſtian, to acknowledge the Judgment and Hand of God in this Work; For of all the Iſſue of *Henry* IV. Of the numerous Family of *Richard* Duke of *York*, of all the Deſcendants of *Henry* VII. and alſo of the Children of *Henry* VIII. there are Scarcely any left, at leaſt none that has a preferable Right, to the moſt Serene King of *Scotland*, that ſo, as formerly has been always wiſh'd for by all good men, this whole Iſland may at laſt grow into one Body Politick under one King, and to comply readily with the Will

Will of God in this Work, of his; And we are bound to Yield Obedience to him, whom we are altogether unable to reſiſt, and cannot without the greateſt Impiety, preſume to oppoſe him: And whatever he who himſelf is the *Soveraign good* has appointed, is to be reckoned the Beſt.

What the Divine Juſtice requires in this affair.

Was this whole affair to be determined by the expreſs Oracles or the Reveal'd will of God, none will be found by the Divine Law to have a preferable right to him; For to what purpoſe do we make uſe of that Prayer, *Give the King thy Judgments, O God, and thy righteouſneſs unto the King's Son*, but that they may *judge the People with Righteouſneſs and Judgment*, but that the moſt Gracious Queen may Compaſſionate her People, who have through the whole Courſe of her Reign been moſt Loyal and Obedient to her, and ſettle all this affair in her own Life time, according to the Laws of God, whom the Heavens Obey and before whom the Earth Trembles. Whoſe *Voice*, as the Pſalmiſt ſays, *is powerfull and full of Majeſty*, and as *Buchanan* paraphraſes that text and the following.

Pſal. 72.

Pſal. 29.

Vox dignitatis plena nec irritæ
Unquam ad patrandum juſſa potentiæ,
Nudare Cedris ſeu libanum juvat;
Celſaſque ventis ſternere fraxinos.

Why are righteous Judgments and Juſtice ſo often commended and recommended to men by the Pſalmiſt? Why doth he pronounce all them *bleſſed that keep Judgment and do righteouſneſs at all times?* Is it not that the people may from thence learn what they ought to do, and ſo may, at length be made partakers of eternal bleſſedneſs? Why are we ſo expreſly forbidden not only to take that which is another man's Right or Property, but even to Deſire or Covet it, if we may ſubvert the Rights and Dominions of others, eſpecially of ſuch as never diſſerv'd *England*? Why are they called Sons of *Belial* who would not have *Saul*, whom God had given them for their King, to reign over them? And laſtly why did *Samuel* tell the People the Manner or Law of the Kingdom, and write it in a Book, and lay it up before the Lord, but that the Lord might be witneſs of the Covenant between the King and the People, and the moſt ſevere avenger of the violation of it? But they who adjudge that Crown to any other beſides him, who has the Call of God to it, do manifeſtly tranſgreſs that Covenant.

Pſal. 106.

1 Sam. xi.

Theſe are the Grounds of the Right of the moſt ſerene King, God by his own Law, by the Judgments of his own mouth calls Heirs to the Succeſſion of their Parents; This, Equity and Juſtice divine, this, Piety and our holy Religion, require at our hands, which we profeſs'd when we gave up our names or liſted our ſelves under his banner in Baptiſm; And we ſhall be convinced ſome time or other, that unleſs, in all our Deliberations and Conſults, we have regard to Piety and Juſtice, we muſt at laſt render an account whether we will or will not before the Tribunal of a moſt Juſt Judge, where there can be no ſhifting or letting fall the Suite, nay no place nor excuſe left for a delay.

But

But ſhould we be ſo ſtupid and inſenſible, as to neglect the regard of Lawful and unlawful, and taking no care to find out the Juſtice of the Caſe from the divine Scripture, to follow rather the Law of Nature or the Laws of men only, nay or the Common Law it ſelf of our Neighbours, they all will agree in this one thing, that the male Iſſue of that Matriage, which was between *Henry* VII, and *Elizabeth* Heireſs of the Houſe of *York*, being extinct, the eldeſt Daughter and thoſe deſcended of her are called to the Succeſſion of that Kingdom, which was undoubtedly the right of one or t'other of thoſe Parents. If ſuch an undoubted right to the Crown of *England*, was eſtabliſhed and confirmed in *Henry* VIII. and his Heirs, as I before obſerv'd from the Statute of Parliament, and he as the true and rightful King had allegiance ſworn to him by all the Subjects, when no Children of his body remain, it cannot be doubted by any body, except ſuch as will not ſee at noon day, but of the Collateral line the Succeſſion appertains to his eldeſt Siſter. Let the *Jeſuites* put on what diſguiſe they pleaſe, turn themſelves which way they will, rummage and jumble and confound all things as much as ever they can, they ſhall never be able to caſt ſuch a miſt before the Eyes of good men, (of which there are not greater numbers in any Country than in *England*) they ſhall never ſo elude the Judgments of the Wiſe, but that the Right of the moſt Serene King ſhall ſhine forth among the reſt of the Competitors, as the Moon among the leſſer Stars.

What from natural Juſtice, and the Law of Nations, and the Municipal Law.

But ſhould we take leave and bid a final adieu to all *Right* and *Juſtice* as well divine as humane, yet theſe being taken away, the foundations of humane Society would neceſſarily be deſtroy'd; If no regard were had of juſt and unjuſt, lawful and unlawful, but only of the publick welfare, as *Doleman* will have it. Tho in all deliberations what is profitable holds the ſecond place only, and always comes after to what is honeſt, yet in my judgment, nothing can be more profitable to *England*, nothing can be more it's intereſt, than this Conjunction in the perſon of the moſt Serene King. For ſome King who may Govern the Kingdom muſt be choſen by you, and of neceſſity he muſt either be one of your own Peers, or a Foreigner. But if you ſhall make one of your own Nobility King over you, nothing will be added to the Riches of the Kingdom, tho he be never ſo powerful either in Riches, or multitude of Vaſſals; the Subſtance of the Nation will neither be better'd nor increas'd; For let his Eſtate, which he brings along with him to the Royal dignity, be never ſo great, yet it makes no acceſſion to your wealth, 'twas all yours before. If he have many Vaſſals or a numerous Family, he ſhall bring none with him but *Engliſh* men, who before were obliged to defend the common Safety, and to repulſe foreign Enemies; nothing will accrue to the Royal Patrimony, neither will your part of *Britain* be any more famous or conſiderable by any increaſe of the number of Subjects or Inhabitants, than formerly.

What is moſt for advantage of England.

Beſides, unleſs he whom ye aſſume, be ſuch a one as has alſo a Title in Law, he, who pretends to a better right, will complain that he has been injured, will gather Riches and make Factions, and watch all occaſions for unſettling affairs and making Innovations, or if he be one of the Competitors, there will be others, who will affirm that they have a better right; then the queſtions concerning unlawful Marriages, about the prerogative of Right, the Subſequent legitimation of Sons, will be ſtarted, theſe are weighty queſtions indeed, and which deſerve to be

The Inconveniencies which would accompany the Engliſh *chuſing a King from among themſelves.*

fairly tried at Law, but right will be decided by the Sword, and he who is the moſt Succeſsful in War, that man muſt be reckoned to have the beſt Right. Juſt ſo as the Controverſy between the Families of *Lancaſter* and *York* was decided and ended, after all the Chief men of both Families were killed, and one hundred thouſand of the ſubjects of *England*. Theſe are indeed ſad examples which are now brought to your remembrance, which nevertheleſs may effectually admoniſh us of our Duty. When civil Wars are once commenced, they ceaſe not but in the overthrow of one of the Parties at leaſt, and perhaps of the Country, as in that bloody conteſt now mentioned, all *France*, and all the Provinces beyond Sea were taken from the *Engliſh*.

The miſeries of Civil Wars.

In civil Wars hatreds are greater than in other Wars, more grievous Exulcerations and Ranklings of minds are bred, and more cruel Enmities are moſt commonly obſerv'd to be among Brothers and near Kinſmen, when once they come to be engaged againſt each other. For they who love exceſſively will alſo be immoderate in their hatred, and for the moſt part ſuch as will not endure to be under their Country men and Brethren, when they are the weaker Party, will fly to Foreign Aſſiſtance and Succours, and be forced to endure Tyrants, and their Officers, the inſtrument of all Wickedneſs and Villanies. For men are naturally ſo diſpos'd, that rather than fail of their pretenſions, and eſpecially before they will ſuffer themſelves to be caſt down from that height of power, which perhaps through an error of opinion they fanſied belonged to them, they will leave nothing unattempted tho never ſo extravagant, will implore foreign Succours, without regarding the event, ſo they may but be avenged of their Enemy; and while we give way to and gratify our Paſſions, we ever follow the worſt Advice. For he who is under the power of his paſſions and the diſorderly affections of his mind, ſeldom admits Reaſon into his Counſels. And mercenary Souldiers will be hired, from whom nothing will be untouched or in Safety among the Country people. Perhaps alſo after the example of *Vortigern*, foreign Souldiers will be invited in for pay; theſe under the fair pretence of friendly Auxiliaries, bringing hoſtile tempers along with them, will obſerve narrowly the infirmities of the Kingdom, pick quarrels perhaps for being ill pay'd, or not having been well uſed, or as became them to be; And having driven out the former inhabitants with their Families, will plant themſelves in their places, and ſo raiſe Eſtates for themſelves; Neither is it to be doubted, but they will come upon a ſlight invitation. For the ſuitableneſs of the Iſland, and in it the affluence of all things, will encourage them mightily, and as it were ſound the Trumpet for Foreigners to make War, where they have a proſpect of reaping ſuch Advantages.

The fatal conſequences of Civil War not diſcerned at firſt.

But theſe conſequences perhaps will be leſs diſcern'd, at firſt, whilſt their enraged minds breath forth nothing but Anger and Hatred, and Cruelty is without reſtraint. But the Spark which lies long hid under the aſhes, (as it did in the Houſe of *York* for ſixty years together) will at laſt break out into a real and great flame, which, unleſs quite extinguiſhed in the beginning, will cauſe a mighty Conflagration, as happens in contiguous Houſes, and will firſt involve *England*, and ſoon after *Scotland* in it's flames. I do not pretend to be a Prophet, but yet we may reaſonably ſuppoſe, that he who has the better Title, if he finds himſelf poſtponed, and ſlighted, will leave no ſtone unturn'd, for recovering

covering his *Right*, and for being avenged of his Enemy: And in case he cannot depend upon the ſtrength of his own Subjects, for attaining thoſe ends, he will call in foreign Auxiliaries to his aſſiſtance, and ſome of them will find Stones and Rubbiſh in the Ruines of great Buildings, wherewith to erect ſtately Houſes and Portico's for themſelves. For inteſtine diſcords and broils have always been the Ruine and perpetual Calamities of great Empires.

But there will be many who will encourage themſelves from the Riches and Wealth of that moſt flouriſhing Kingdom, which are ſufficient for bearing the burden of any War whatſoever. But the greater the Wealth of the Kingdom is, the miſeries thereby will be the greater, when they come to quarrel among themſelves, and one Party daſhes againſt another; And perhaps if a Civil War follows, it may end in the Ruine of the Kingdom. For the Parties differing being once engaged among themſelves, and Sheathing their Swords in each others Bowels, when they make a Tryal of their ſtrength, they muſt neceſſarily deprive the Commonwealth of one part of its ſtrength, and rob it of the one or the other Army. For in Civil Wars, 'tis only one Party that can be Victorious. No man out of any confidence he has in his own ſtrength or forces, ought to attempt an unjuſt thing, and which is repugnant to the Law either divine or natural. For they who truſting in their own ſtrength take up arms unlawfully, are ſeldom victorious. The deſpiſing of Enemies, and too great confidence in their own ſtrength, deceives men for the moſt part, and hurries them on to ruine: Neither do good and wiſe men conſider ſo much the beginnings, as the event of Wars. Nor yet ſhou'd their cauſes be leſs neceſſary than juſt, ſuch as may make their Wars not only juſt, but even unavoidable alſo, and ſuch as can by no other ways and means, be prevented, nor Juſtice be obtain'd, but only by arms. But if Wars are undertaken without any neceſſary cauſe, but by manifeſt injuſtice, or to gratify the paſſions of Anger or Hatred, the beginnings are ſeldom auſpicious, tho' they may appear light and contemptible, *The beginning of ſtrife*, ſays the Wiſeman, *is as when one letteth out Water*, which when once it gets a paſſage even through a ſmall hole, breaks down the earthen bulwarks which withſtood it. For it cannot be reſtrain'd afterward by any force, from bearing away and carrying along with it, whatſoever ſtands in its way. Wars are indeed puniſhments, wherewith God exerciſes a people that's become wanton with too much proſperity; and he ſeverely chaſtiſes and puniſhes thereby the Crimes and Wickedneſs perhaps of both Parties. Such Wars are not ſo eaſily brought to an end, as men at firſt fanſied to themſelves. God eaſily brings down unjuſt force, and favours a juſt Defence and Cauſe. Wherefore of neceſſity, theſe Wars which may be undertaken upon account of pretended Titles to the Kingdom, are unneceſſary from their beginning, and muſt take their riſe from injuſtice, which may be eaſily guarded againſt, and prevented, if willingly and of your motion you will do what you ought, and that is, by preſerving to each man his own Right entire and inviolate, which, as I hope, you will faithfully perform.

None ought to attempt an unjuſt thing, from any opinion of his own ſtrength.

Prov. xvii. 14.

But ſhould you, being enticed and allured with proſpects of profits and advantages from foreign Princes, chooſe a foreign Prince for your King, which God forbid, you ought firſt carefully to conſider one thing, How you will be able to reconcile ſuch a deed with the word of God, who in the Royal Law or Law of the King, commands you *not to make a ſtranger*

The miſeries under a foreign Prince.

Deut. xvii. *a ſtranger who is not of your Brethren King over you.* So by chuſing a ſtranger you ſhall ſubvert the Law of your God, and theſe advantages which have more of appearance than reality, commonly end in vexations and anxieties, and under pretext of profit, innumerable evils will come upon you, after the example of *Pandora* in *Heſiod*, who with the forehead of a Whore, brought along with her innumerable Evils, and Diſeaſes into the World.

The Engliſh *could not be ſuppos'd to chooſe the King of* France; *altho' they had a free Election.*

Or if you will have a foreign Prince becauſe of his Power and Might, you muſt either take the King of *France*, or the King of *Spain*; I doubt not but there is a firm and ſincere Peace between you and *France*, and I wiſh that it may continue long. Nevertheleſs that near Neighbourhood as it has afforded advantages, ſo has it produced the Seeds of hatred, and in the Statutes of your own Parliaments the *French* King has been ſometimes called the *Hereditary Enemy of England*, and *Matthew Paris*, gives an account how agreeable the manners of the *French* are to thoſe of the *Engliſh*, in the inſtance of a certain languiſhing Souldier, When as the *Barons* of *England* had called *Lewis Dauphine* of *France* into *England* to be King of *England*; And above twenty years ago, when they were invited by the *Dutch* upon the ſame account, how inſolent were they? What bounds did they ſet to their ambitious deſigns? This all men know very well, that the manners and temper of the *French* can never agree with the manners and temper of the *Engliſh*, and that the *French* can more eaſily cheriſh any other foreigners than the *Engliſh*, and again the *Engliſh* any other rather than the *French*, whilſt one of them cannot endure an equal, nor the other a Superior.

Nor the King of Spain.

As for the *Spaniards* what Cruelties have they not committed in the Provinces which they have lately acquired by War? What kind of inſolence or barbarites have they left unattempted. For the diverſity of Climates makes a difference in the tempers of men; Neither can they dwell long in the ſame Country without quarreling among themſelves. Hence new matter and occaſions of tumults ariſe, and perhaps of Wars, and ſuch will be the condition of the *Engliſh* as is that of the people of *Mexico*, or thoſe in *Africk*, who muſt ſuffer themſelves to be beaten by the *Spaniards* even untill they are wearied.

But they may hope for a far different treatment from the King of the *Scots*; For firſt whilſt ye wrong no man, ye ſhall get no man's ill will: The Laws of Birth right are not in your power, what is due to them is to be aſcrib'd to God alone, whoſe voice ye obey, when you *render to every one his due.* Neither can any man upbraid you for that deed. And by the acceſſion of his Kingdom, your own Strength and Riches will become greater and more plentiful. In the proverb of the *Greeks* ὄφις ἄνμη φαγῇ ὄφιν, ἔκ ἀν γενήσεται δεῤκων. *Unleſs a Serpent eats a Serpent, it never comes to be a Dragon.* From the confluence of leſſer Rivers grow prodigiouſly great ones, and the leſſer often loſe their own names while they fall into the greater Rivers, and yet they run into the Sea in the ſame Channel with the greater, as the wiſeſt King of his Age *Henry* VII. juſtly foretold, when he betrothed his Daughter.

The King of Scots *preferable to them all, altho' he had not a Right.*

But if a free Election of the Succeſſor was allow'd at the pleaſure of *England* it ſelf, or ſuppoſing the moſt Serene King had no Right to the Succeſſion of it, yet 'tis expedient that all *Britain* ſhould be united under this head, and it is alſo neceſſary, that ſo that Monarchy may not fall

fall short, when compared with the Neighbouring Kingdoms for dignity and puiſſance; And that the Tranquility of it's Subjects may be ſecured, and the fury of in inſolent Enemies may be repreſſed. Neither is he one who will proudly and inſolently domineer, ſeeing he does not deſire, or cannot eaſily reign over any but a willing people. Add to this alſo his extraordinary and obliging affection towards all the *Engliſh*, and his candor tempered with prudence, which can hardly be parallelled in any for ſome Ages paſt, and his juſt praiſes being of that nature, which truth it ſelf will extort even from an Enemy. Such qualities will conciliate the affections of men to him from all quarters, and being thus ſupported he can ſuſtain all the impreſſions of his Adverſaries. And ſhould any other truſting to the ſtrength of his own Party, or to the choice of the turbulent Mob get poſſeſſion of the Kingdom, let him conſider that he has invaded another man's Right; Neither can ever the Kingdom it ſelf enjoy peace and quiet whilſt poſſeſs'd by one who has no lawful Title to it. There will be no end of factions and tumults. But by receiving the true King and Heir, you ſhall perform the duty which you owe to God, and the Commendation of your Juſtice and Equity will remain with Poſterity forever, Tumults and all Wars whether Civil or Foreign will ceaſe, neither will any be found any where to open his mouth, or give you the leaſt diſturbance.

But in the name of the Immortal God tell me what is it that you would have, if all things were left to your own free diſpoſal? Is it to have your Kingdom enlarged? By this acceſſion, the boundaries of it will be far enlarged, and its ſtrength and power increaſed. For your Kingdom will be half as big again as 'twas before, tho' the ſoil in every part be not equally fertile, and there is great difference as to the fruitfulneſs of Lands in *England* it ſelf: and yet we poſſeſs as much ground, reckoning our Iſlands, and that which is not plough'd is moſt fit for Paſturage. If it be the *Dignity* of your Kingdom that you deſire, by the acceſſion of *Scotland* to it, 'twill be much more Noble and Majeſtick than before. This we may truly ſay, that thereby you'll get a Kingdom united to you, which is by far the moſt ancient in all *Europe*, tho' it be compared even with the more powerfull Kingdoms in it, and you ſhall ſcarcely find any Nation, which has with greater Glory maintain'd it's Dignity, whatever it is, unſhaken tho' attack'd by your ſelves (to whom *France* and *Spain* had yielded) and often infeſted with moſt grievous Wars by the *Danes*, (by whom beſides *France*, *England* it ſelf was alſo brought under ſubjection.) But if you have a greater regard, as moſt men too commonly have, to private Intereſt, than to any other thing whatſoever, nothing can ſo effectually advance the welfare and real advantages of private men, as the ſecuring to them an undiſturbed and unterrupted Peace and Tranquility. For even the Subſtance and effects of private men are either proſperous or ruined with the publick State of the Kingdom; Neither can the publick quiet be firm and durable, unleſs you do what is juſt to every man, and recognize the true Heir of the Kingdom. And if that which is one's own or of right belongs to him ſhould be given to another man, whoſe right it is not, *England* cannot poſſibly eſcape either a civil War, or War from abroad, or haply both, which will ſhake and tear it to pieces. For Injuries and Impiety are the forerunners and procuring Cauſes of a War. Neither is it probable that their Arms will be attended with

King James VI's *Succeſſion will be for the honour of* England.

Scotland *is the moſt ancient Kingdom in* Europe.

Succeſs, who by their unjuſt deeds give occaſion for a War, who bring upon themſelves the tears of a miſerably harraſſed and pillaged people, the direfull Curſes and Execrations of Women, and which is yet moſt dreadfull, all the imminent Judgments of an Almighty and provoked God.

The ſubduing of Scotland *attempted in vain by the* Engliſh.

Your Anceſtors attempted often in vain, right or wrong, to bring *Scotland* under their Subjection. How many Armies under your *Edwards* firſt ſecond and third were deſtroy'd on both ſides, and what bloody Battels were fought Hiſtory and the Annals of thoſe times bear witneſs; And yet the event of all thoſe Engagements was, that *Scotland* ſhould be at laſt left to enjoy it's freedom, and it's own Right. Now that which heretofore you ſo often endeavoured to compaſs by armed force, and ſharp Wars, is at preſent offered to you unarmed, and upon terms of Peace, without drawing your Sword, or the effuſion of one drop of Blood. No man, as I think, is ſo fiercely bent on War, but if the ſame reward of Peace and Quiet be offered him, will chuſe it rather than venture on the doubtfull iſſue of War and Dangers. 'Twill be hard to put the Yoke of your Government upon the *Scots* againſt their Will, willingly they'll agree in one Juriſdiction, and in one Empire. Perhaps alſo the name of the Empire, and the Royal Power will be with you, *London* the Seat of the Government, whence the *Scots* will receive their orders, for whatever is to be done in all their affairs; and the Royal Commands and Mandates will be carried from you to us. We being ſatisfied and contented with the publick Peace and Quiet, will concurr with you when deſired for defence of the Common Kingdom, as we alſo formerly did againſt the *Danes*; And if our Hiſtories deſerve any credit, againſt the *Romans* alſo. And our Eſtates alſo, tho perhaps leſs than yours, will nevertheleſs make no contemptible addition, and they may receive improvements if we had your induſtry added to them. For we freely own that our Country men like the old *Germans*, chuſe rather to live in idleneſs and poverty, than to apply themſelves to work at gainfull Trades, by which riches are acquired; Neither perchance is there any Country, which might better anſwer the deſires of the moſt covetous Merchant. Laſtly we are ready to join with you for the maintainance and defence of the Common Safety with our Fortunes as well moveable as immoveable, nay and to ſpend our Lives for it.

Objection.

Anſwer.

What hindred Edward I. *in his wars againſt the* Scots.

But we are a turbulent Nation, ſay our Adverſaries, and they who do not willingly ſubmit to Peace, will not be kept long in their duty; For they ſhook off the Government of *Edward* I. I will not make old ſores bleed again, but *Edward* was minded to command them, as a conquer'd Nation, whether they would or would not. But had he uſed a mixture of Clemency, with his Fortitude and Valour, towards thoſe whom he overcame, and intended by humanity rather to mollify than by his ſeverities to cruſh the Minds and Courage of a bold Warlike people, who were almoſt brought under Subjection to his Government and Power, he might have enjoy'd a Peaceable poſſeſſion of *Scotland*. His deſign was ſpoiled by his too great thirſt after the Blood of the *Scots*, which ſo galled and enraged the minds of an almoſt Conquered Nation, that they would not ſo much as hear of the terms of Peace ſo often offered them. This is an Age of greater humanity and more civiliz'd. Now all *Scotland* with their King will agree to make one Empire with you, not to be Servants, but by their Union to make one Society, and at laſt to grow into one politick body. But

But, ſays *Doleman*, he is a foreigner, and the Dominion of a foreign Prince is of all things moſt unacceptable to the *Engliſh*. I have before made this alſo appear to be a falſehood. He is an *Engliſh* man, the Son of an *Engliſh* man, who from both his Parents is deſcended of the *Engliſh*. And if all things were weigh'd in a juſt balance, he is by more degrees in blood deſcended of the *Engliſh* than of the *Scots* Line. His Father, his Grandmother, his great Grandmother, all *Engliſh*: Again altho' his Mother and Grandfather were Sovereigns of *Scotland*, yet he comes to be an *Engliſh* man again in his great Grand mother, ſo that were this whole affair examined by a Geometrical proportion, he would be found to be by one and a half *Engliſh*, and all his Poſterity *Engliſh*, becauſe they'll be born in *England*. No doubt but the pleaſantneſſes which are on each ſide of the River *Thames*, may determine his choice rather to live there than in *Scotland*, tho' *Scotland* is not without it's own conveniencies.

Another objection anſwer'd and King James vi. *prov'd to demonſtration to be an* Engliſh *man.*

Look back to *Charles* V. in the Imperial diet, whilſt they conſulted about chuſing a new Emperour, and his name put among the firſt of the Candidates, and it was objected againſt him, that he was a *Spaniard*, and King of *Spain*. To which *Frederick* ſirnamed the *Wiſe*, Duke of *Saxony* anſwered, 'Tis certain that his Mother was a *Spaniard*, and he himſelf born in *France*, and by the Right of Succeſſion held the Kingdom of *Spain*, yet nevertheleſs ſeeing his Father was a *German*, he himſelf ought to be reputed a *German*, and that it would be for the advantage of the Empire, were he choſen to Govern it; ſeeing he would add the riches of his own Kingdom to the ſtrength of the Empire [a].

The Example of the Emperour Charles v.

In *Sarmatia* or *Poland*, the Royal Family having fail'd ſo far that only one Virgin *Hedwiga*, come to marriagable State, remain'd, and ſhe being betrothed to the Arch-Duke of *Auſtria*, or at leaſt extreamly inclin'd to accept of his Love; notwithſtanding all this *Jagello* Duke of *Lithuania*, tho a foreigner, but who at that time had embraced the Chriſtian Faith, was preferred to the other in Marriage with the heireſs of the Kingdom; Becauſe he promiſed to annex all *Lithuania*, (which Country for largeneſs is not much ſhort of *Poland* tho' it be not to be compared with it in fruitfulneſs) to the Crown of *Poland*. By ſuch ways the Kingdom of *Poland* has attain'd to that greatneſs and power which we ſee at this day. Neither was ever *Lithuania* after that time disjoin'd from *Poland*, but being cloſely allied to each other, by an unanimous agreement with reſpect to dangers and expences, they jointly encountred the common Danger.

The Uniting Lithuania *to* Poland.

In *France*, how often by the laſt Wills of their Kings were four Kingdoms made out of one, when they divided their Eſtate among their Sons, but they were ever plagued with Tumults and Seditions, untill all the parts of it were reunited, and the whole recovered it's ancient Majeſty and Strength.

After the deſtruction of the *Goths* by the *Moors* in *Spain* (for from that time we may date the beginnings of the Kingdoms of *Spain*) *Pelagius* firſt eſtabliſhed the Kingdom of *Galicia* and *Leon*, *Garcias Ximenes* that of *Navarr*, *Henry* of *Lorrain* that of *Portugal*, and *Raimirus* the Kingdom of *Arragon* &c. According as each of them was Succeſsfull in forcing a Province out of the hands of the *Moors*, he made himſelf King of the ſame. So at firſt there were Twelve, afterwards Seven, and

Plurality of Kings has been the ruine of many Kingdoms.

[a] Sleidanus lib. 1.

and at laſt *Spain* was brought to have two Kings only. At this day 'tis all under one moſt potent Monarch. In which this one thing deſerves our notice, when by the Marriage of *Ferdinand* King of *Arragon* and *Elizabeth* Queen of *Caſtile*, *Arragon*, *Valence*, *Murcia*, *Caſtile*, *Leon*, *Granada* and other Kingdoms were all united into one, neither was any other remaining but the Kingdom of *Portugal* in *Spain*, thoſe moſt wiſe Princes having only Daughters, for the only Son was dead, took into their conſideration above all things, how they might alſo unite the Kingdom of *Portugal* to the reſt, that all Controverſies and all matter of diſſention might be taken out of the way for the future. Purſuant hereto they married their Eldeſt Daughter to *Emmanuel* King of *Portugal* of which Marriage the Prince *Michael* was born, to whom even while he was a Child, his Parents took care to have an Oath of Fidelity or Allegiance ſworn by all *Spain*, as to the Heir, and one who was to be Lord of all thoſe Dominions. But the untimely death of *Michael* and of his Mother, ſoon blaſted their hopes. Hence it came to paſs that the Succeſſion of the reſt of the Kingdoms, *Portugal* excepted, was devolved to *Iſabella* and her Son *Charles* V. who nevertheleſs from the ſame hope, did alſo himſelf marry the Daughter of the ſame *Emmanuel* King of *Portugal*, and by her had his Son *Philip*, who claim'd *Portugal* as his right by his Mother, and at length poſſeſs'd himſelf of it by armed force. And ſo all the Kingdoms of *Spain* are under the Empire and Government of his Son *Philip* III. who is the moſt powerfull Prince upon Earth, and are become one Monarchy. Thoſe diſcreet Princes reckoned, that an aſſured Peace, and perpetual Quiet could never be preſerv'd in *Spain*, as long as it was diſtinguiſhed by two heads, as long as it ſhould be governed by two Kings, tho' *Portugal* was far inferior for it's worth and dignity to the reſt of *Spain*.

But our preſent diſpute, as 'twas deſigned, concerns *England* or rather *Britain*, and it's Honour and Safety. What invited the *Saxons* into this Iſland, but the ill agreement and diſcords of the parts of this *Iſland* among themſelves? Thoſe new gueſts thruſt out the ancient Inhabitants, and parcelled out the South part of *Britain* into an Heptarchy or Seven Kingdoms, ſometimes into Eight, and ſometimes they made Nine Kingdoms out of it. For what ever County any of them ſnatch'd out of the hands of the *Britons*, the Succeſsful aſſailant made himſelf be declared King of it. What memorable action was done by the *Engliſh* during the whole time of the *Heptarchy*? For whilſt each of them were unable to ſuſtain and repell the forcible impreſſions of Enemies, miſerable Butcherings among themſelves enſued. In ſo much that they never ceas'd from Slaughtering Kings on all ſides, and from Harraſſing and Butchering the people, untill the whole *Heptarchy* grew into one Kingdom under King *Egbert*. Neither did *Scotland* enjoy greater quiet, for that which is now called *Scotland*, at leaſt that part of it which lies towards the *German* Ocean, was poſſeſs'd by the *Picts*, a Nation memorable both for their Wars with the *Romans* and the overthrow of *Egfred* King of *Northumberland* with his whole Army. Neither was there any end of Wars between the *Scots* and the *Picts*, untill the latter were quite rooted out, ſo that there is not ſo much as any remnant to be found at this day, to preſerve the memory of their ever having been a people. The *Welſh* remain'd in the South-Weſt part of *Britain*, and they while they had their own Kings, ſometimes one, two or three, being for a long time

The inconveniencies of the Heptarchy of the Engliſh.

Of the two Kingdoms in Scotland.

Wales *ſometimes divided.*

time gall'd with most grievous wars, submitted themselves at last to the Crown of *England*. And *England* tho' (the rest of the Kingdoms of the *Heptarchy* being extinguish'd) it grew together into one Kingdom under one Prince, yet never sustain'd the impressions of the *Danes* by it self, but with the assistance of ten thousand *Scots*, it oft times maintain'd the war against them very well and with good Success.

What a figure the Monarchy of Britain *will make when both Kingdoms come to be united.*

There remain at this day two Kingdoms in *Britain*, which will never forbear assaulting and infesting one another, untill they become one Empire under one head; And untill that be brought about, they will not be able to Sustain the Shock of the power of *France* or *Spain*, and it may so happen that both those Nations may some time or another conspire together for the overthrow and ruine of *England*. In this *Britain* truly had the advantage of both those Nations, to wit, in the numbers of it's Souldiers. For we know how scarce *Spain* is of Souldiers, and *France* for the most part makes use of foreign forces. Let therefore the strength of both Kingdoms be united, and by that Conjunction we shall have one most powerful Monarchy, which both *Henry* VII. and his Son *Henry* VIII. intended to do, so as that if we be not Superior to our Neighbours in Greatness, Souldiers and Riches, we shall be certainly equal to them. Neither is *Scotland* so barren of conveniencies, as not to supply us with all things necessary, many things also for Pleasure and Luxury, together with several advantages for the increase of Riches, were the Inhabitants more intent on gain; But I know not, as I said a little before, by what unhappy bent of the Nation, our Country men choose rather to live in Idleness, nay even in Poverty than to apply themselves to any gainful Trades; Because by dealing in these, they falsely reckon the honour of their Birth to be impair'd and stain'd. Neither is it to be hoped that peace with our Neighbours will continue forever. For the power of Neighbours, (who most greedily covet occasions of enlarging the bounds of their Dominion, according to the inclination of mankind who generally catch what they can, right or wrong, justly or unjustly) is never to be trusted. The Mother of contention, according to a Proverb of ours, is no bigger than a Gnat's Wing, which nevertheless grows oft times up to the bulk of an Elephant.

Some few objections.

But some will say that the genius of the *Scots* is averse to peace and quiet, and that it's impossible to make and preserve them faithful and friendly, that being fond of the friendship of the *French* they were always the first in arms and aggressors in their Wars against *England*. I Answer, 'Twas your enmity against the *Scots*, which begot that friendship between them and the *French*; let the first be taken away and the other will fail, let *Scotland* be join'd to *England*, and all the Commotions in *Ireland* will be at an end: These our Islands from whence they were furnished with auxiliary forces, will be yours or under the power of your King. We own that sometimes we were the first in taking arms, but to our great loss and hurt; and that we also occasion'd the wars, whilst we were entangled with foreign Leagues, or rather madnesses, we neglected minding what was just, what was profitable, for some small present advantages. But we expiated all those faults with our own blood, and paid such punishments as mov'd compassion even in our enemies, as in that overthrow which we had at *Pinkie*, at a time when that so often wish'd for union was most finish'd. We were almost mad at that time, having been stirr'd up by the preachings and threats of the Priests and furious Monks, who reckon'd that they were undone, should *Scotland* also

Answer'd.

have agreed with *England* in matters of Religion; For *England* at that time had made ſome alterations in the ſtate of Religion, overturn'd the Monaſteries, and renounced the Pope. Theſe were the Cauſes which then hindred the Coalition of both Nations in to one, as was greatly wiſh'd for by them both; and altho' God ſometimes puniſhes the ſins of both people by Wars, yet he chaſtiſes them more ſeverely who gave the occaſion of War, and moſt commonly victory attends the juſteſt Cauſe.

But to let thoſe things paſs, which cannot be recounted without reflecting ſome diſhonour upon our ſelves, and are very much for your glory, call to remembrance how in the time of the *Engliſh-Saxon* Kingdom, when King *Ina* reign'd over the *Weſt-Saxons*, the *Scots* married Wives out of *England*, and they gave their Daughters in marriage to the *Engliſh*, and both Nations by their Affinities, were thus cemented toge-
Ἀρχαιολογία. ther into one, againſt the power and aſſaults of the *Danes* and *Norwegians*. The *Conquerour* afterwards alter'd the ſtate of *England*, which innovation when moſt of the *Engliſh*, from their natural greatneſs of mind or uſual bravery, cou'd not bear, and yet not having forces ſufficient wherewith to encounter the *Normans*, they retired into *Scotland*, to avoid the mortification of ſeeing the Conquerour domineering over them. At that time King *Malcolm* III. reign'd in that Kingdom, who having for his royal Conſort *Margaret* the Siſter of *Edgar Etheling* the true and rightful King of *England*, receiv'd all the *Engliſh* with the greateſt humanity and kindneſs, undertook a War againſt the *Normans*, but peace being made by means of the Biſhops who interpos'd in that affair, King *Malcolm* obtain'd for all the *Engliſh*, that were in exile, reſtitution to their Goods and Eſtates, which they that remain'd at that time in *England* could not obtain. But ſome of the *Engliſh* Nobility themſelves, who had the utmoſt deteſtation of the *Conquerour*, choſe rather to continue in *Scotland*, and *Malcolm* handſomly beſtow'd Lands and Inheritances upon all of them.

* Matth. Paris in Willielmo Conqueſtore, Malmesburienſis, Hoveden *and others.*

We have thoſe accounts from your own writers, who bear witneſs that at that time both the right of the Kingdom of *England*, and the *Engliſh* Nobility went to the *Scots*, and ſettled there [a]. Hence moſt of the chief Families, and who among us are reputed moſt noble at this day, took their riſe, viz. The *Lindſeys*, *Vauſſies*, *Ramſeys*, *Lovells*, *Preſtons*, *Louries*, *Sandilands*, *Souleſies*, *Wardlawes*, *Maxwells*, to which were after wards added the *Hamiltouns*, *Montgommerys*, *Kerrs* or *Carrs*, *Scots*, *Colvils*, *Cúnninghames*, *Quincys*, (who had alſo been Earls of *Cheſter*) the *Roſſes*, *Baliols*, *Bruices*, *Biſets*, *Stratons*, *Barclays*, *Knolls*, *Lyllies*, and even the Royal Family of the *Stuarts* it ſelf, has its original from a Daughter of the Prince of *Wales*, and *Walter* the chief of that Family was an *Engliſhman* born in *England*. What is it then you can ſtumble at? For if you come to us, you come to your own Countrymen, and to them who are deſcended of your ſelves, if you receive us, you'll receive none but ſuch as are born of the *Engliſh*, and who by their original are *Engliſh*. Nay as often as I read *Hollinſhed*, and the names of the ancient Families among you occurr to me, I find all the ſame names almoſt in *Scotland*, which is a ſtrong proof, that theſe names either were tranſmitted from your Country men to us, or went from us into *England*. Shall we ſay that the Colonies of the *Romans* loſt their Citizenſhip or the freedom, rights and privileges of the City of *Rome*, or that they were foreigners to

to the City and *Roman* Empire? Nay they enjoy'd the ſame right of the City of *Rome* as well as they who were born in it.

Finally we have exchanged our manners and the cuſtoms of our Country for yours, becauſe yours come nearer to politeneſs, ours to toil and enduring hardſhips and want; ſome of your writers ſtick not to reproach us, as being wild and clowniſh, with reverence be is ſpoken, in our manners and behaviour, becauſe we have not as yet accuſtom'd our ſelves to ſeaſon our expreſſions with courtly artifice; In which I am affraid, leſt we at length tread in the ſame foot ſteps with you. We have at laſt rejected our own language, and make uſe of your Idiom. Finally we have alſo receiv'd the Laws of the *Engliſh*, which at this day are made uſe of among us, and have ſlighted our own Country Laws. For they who will have it, that *Scotland* is govern'd by other Laws than ſuch as have place in *England*, are moſt ſhamefully miſtaken. 'Tis indeed the ſame *Feudal* Law, which both Countries uſe, by the rules and inſtitutes of which they are governed; which, being brought from *France* into *Britain* by the *Conquerour*, the *Engliſh* firſt, and ſoon after them the *Scots* alſo embraced, as we have made appear more fully elſewhere? The forms indeed of Judicatures and Judicial proceedings are different, which nevertheleſs inferrs not a difference of the Law. For ſo there are different forms of Judgments even in *England* it ſelf, and in our *Scotland*. What then can move any man to ſay that we are ſtrangers, or to reckon us ſuch? May the Almighty and moſt gracious God grant that, theſe names of private grudges and hatreds, being at laſt lay'd aſide, as being the ſeed plots of Wars, all *Britain* may grow together into one political body under one Sovereign, and have one name, that the whole of it, concurring together with united ſtrength and forces, may be able to oppoſe any power whatſoever. And that I may conclude all with that of *Virgil.*

Scotland *uſes the ſame Language, and is govern'd by the ſame Laws as* England.

——*Paribus ſe Legibus ambæ*
Invictæ gentes æterna in fœdera mittant.

Let both unconquer'd Nations join in one,
In Friendſhip and in Arms by none out-done.

FINIS.

CONTENTS

THE

CONTENTS.

A

Adminiſtration diſtinguiſh'd from *Dominion*, that diſtinction founded on Scripture, and receiv'd in the Feudal, Civil and Canon Law, 154, 155.

Agathocles being entruſted by the Common-wealth of *Athens* made himſelf Maſter of it, 40.

Alexander the *Great*, the Succeſſors of his Captains were hereditary Monarchs, 115.

Alexander VI, having the government of *Rome* in the vacancy of the Papacy, forc'd the Cardinals to chooſe him Pope, 39.

Alphonſus X. his Story, 176, 177.

Alphonſus de la Cerda, his Children did ſucceed at laſt, 116.

Alphonſus King of *Portugal*, his Children were born in Adultery, 384.

Alvarus Lara did much miſchief while he was *Interrex* of *Caſtile*, 41.

Ambitious, an ambitious man ſpares neither Money nor promiſes that he may obtain a Kingdom, 51.

Amon was not depos'd by any ſentence of the people, on the contrary his Murderers were put to death, 170.

Anceſtors, the meaning of that word, 276.

Anceſtrie, briefs of *mort Anceſtrie*, *ibid.*

Appius Claudius decemvir refus'd to lay down his Authority which he had only for a time, 40.

Arabella, concerning that Lady, 360.

Arcadia an hereditary Kingdom, 116.

Argia an hereditary Kingdom, *ibid.*

Ariſtocracy, its riſe, 15. *Megabyſus*'s Speech for Ariſtocracy, 18. No footſteps of Ariſtocracy in the ſacred Scriptures, 157. Neither does it derive from the Law of Nature, *ibid.*

Art, Governing an art, 25.

Arundel, his baſe deed, 325.

Aſſyrian, the firſt hereditary Kingdom was the *Aſſyrian*, 115. *Nimrod* is ſaid to have reign'd there by force, and conſequently not by the conſent of the people, 146.

Avignon, how it came to the Pope, 313.

Aurelianus's notable Deed, 110.

Author, the Author's deſign in undertaking this Controverſy, 4.

B

Baliol and *Bruice*, the conteſt between them 90.

Bamba King of *Spain* how ſerv'd by his own General *Paulus*, 39.

Beatrix was not Heireſs of *Portugal*, 217.

Bellay's propoſitions are not overthrown by *Doleman*, 186. *Bellay* defended againſt *Doleman*, 207.

Beotia in *Greece*, famous for being the field where many great and bloody battels were fought, 411.

Blood Royal cannot be tainted with Treaſon, 336.

Boniface VIII, his Character and how he obtain'd the Papacy, 52.

Borderers are always ſtout men. 77.

Bribery Commonly takes place in moſt Elections among all ſorts of people, 94.

Britain, the miſeries it ſuffer'd whilſt it was under the *Roman* Empire, 390. The ruine of the Kingdom of the *Britains* owing originally to their excluding the right heir, 86. Stain'd with much bloodſhed in many deſtructive battels, 411, 412. A double headed Monſter compar'd to *Britain*, whilſt under two Monarchs, 414. The figure that *Britain* will make when both Kingdoms come to be united, 429. It's miſery under a multitude of Kings, 417. Nothing wanting to it's happineſs but to be under one Monarch, 413.

Britains, miſerably treated by the *Saxons*, 392. Many things proſperouſly attempted by the *Britiſh*, 413.

C

Cadmus a founder of a Kingdom, did not derive his power from the people, 148.

Cambridge, The Sentence againſt the Earl of *Cambridge* did not affect his Son's Succeſſion, and it was afterwards reckon'd to be unjuſt, 335, 336. Neither can the Blood Royal be tainted with Treaſon, *Ibid.*

Carliſle, the Biſhop of *Carliſle*'s notable Speech for *Richard* II. 327.

Carthage founded by *Dido*, 146.

Caſtile, the whole Race of *Caſtile* is by Baſtards, 382.

Cayithbeius the Sultan of the *Mammalukes* 60.

Cerbanus's notable saying concerning the Sons of the Sun, 415.

Cæsar the *Dictator* of himself prolongs his own Authority, 40.

Ceuta, the Earl of *Ceuta*'s resentments, 69.

Charles IV. Emperour sold *Pisa*, 66.

Charles V. that Emperour's ingratitude to the Duke of *Saxony*, 65.

Charles of *Lorrain* was not depos'd, 175.

Changes in the Government of a State dangerous to it, 158. Changing the Governmental ways pernicious and sometimes fatal, 159.

Childerick, the deposition of that King was contrary to the Laws of God, Nature and Nations, and to all humane Laws, 175. His Character and Innocency. Kings admonish'd by his example to mind their own affairs, *Ibid.*

Children, the meaning of that word in the Statute of *Edward* III, and who are said to be the King's Children, 274. Children the same with the Latine word *Liberi*; it's meaning in Law, *Ibid.* and 275, 276. Who are meant by Children in Scripture, 277. It's extended to all descendants, *Ibid.* Of the Children of Kings, which were begotten whilst they were private men, 363, 364. The Children of Sons, ought to be preferred before the Children of Daughters, in the Succession of the Grandfather, 373. An Elected King's partiality in preferring his own Children and Kindred, 61.

Christians are bound to have a chief regard to Right and Justice before conveniency or profit, 227. Christian Kingdoms were hereditary, 117, 118, 119.

Christiern II. King of *Danemark* his fate, 179.

Chylon's severe resentments upon the *Ephori*, for depriving him of his Succession, 114.

Citizens, Examples of them who were reckoned Citizens, as being born of Citizens, 295.

The rights and priyileges of a free Citizen, 301.

Cleomenes's death put an end to the *Heraclidan* Kingdom in *Sparta*, 69.

Cleopatra, preferring her younger Son was killed by him, 93.

Coin, great mischiefs attend the altering the Coin of a Nation, 177.

Commonwealth, when to be obey'd and when not, 225. The unreasonableness of giving the title of Commonwealth to the giddy multitude, 227.

Community, it is to be distinguish'd from single persons in it, 201. It is not wrong'd tho' particular persons be aggriev'd, *ibid.*

Controversy, the occasion of this Controversy, I. The Author's design in it, 4. The whole state of the Controversy contain'd in *Doleman*'s first part. 229.

Coronations and Coronation Oaths are only declaratory of Right, 202. Kings are not less Kings tho' they never swear the Coronation Oath, 200. They are not essential to ones being a King, 204. Of the form of the Coronation Oath, 205.

Counsellours of Kings are chosen by the Kings themselves, and not by the People, 161. 'Tis necessary for Kings to use the advice of Counsellors, 162.

Country, a man ought chiefly to mind the welfare of his Country, 4. Some Instances of great men their forgiving injuries done them by their Country, 190.

Crete, it's Commendation, 413.

Critognatus, his Speech in relation to the *Romans*, 390.

Crotonians their noble saying, 396.

Custom has no place against written Laws, 301.

Cypselus, being entrusted with the Army, made himself Master of *Corinth.* 40.

D

Danemark was an hereditary Kingdom 11. Foreigners not excluded from succeeding in it, 289.

Darius's speech for Monarchy, 18. He is made King of *Persia*, 43.

Democracy its rise, 15. The speech of *Otanes* in favour of Democracy, 18. No footsteps of it in Scripture, neither does it derive from the Law of Nature, 157.

Demosthenes's sp. in favour of Monarchy, 21.

Dion's fact at *Syracuse*, while entrusted with the army, untill that state should be settled, 39.

Dissentions unavoidable in popular Assemblies for choosing a new King, 53.

Doleman, his two books or two parts, his true name, and the tendency of them towards the subversion of all Civil Society, 142, 143. His First propositon, *ibid.* He takes the thing that's in Controversy for granted, 162. His examples from *Germany*, *Poland* and *Hungary* are not to the purpose, 163. The Example he brings from *Spain* inquir'd into, *Ibid.* His Dissimulation, 164. He discovers his main design which is to overthrow the Succession, 165. Premises two things, *Ibid.* His protestations consider'd, 166.

Doleman declares plainly for deposing lawful Kings, 167. Gives the title of *Commonwealth* to the mob, *Ibid.* His metaphor of the bodies authority over the head consider'd. His examples are not to be imitated *Ibid.* Two Rules with relation to Examples especially those of *Doleman* Ibid. and 168. He loads the people with all the barbarous murders, committed by Rebellious Parricides, 170. He is Chastis'd for commending Impiety. 177. His examples from *England*, examined, 179. His Verdict against himself as to the whole Controversy, 182.

Doleman's inference from his pretended lawfulness of deposing Kings in possession, to the exclusion of Heirs apparent and Successors, examined, 182. His argument, from the next Heirs being dissolute answer'd, *ibid.*

and

and 183. His distinction, borrowed from the Schools, of privative and cumulative Power, consider'd, 184. His difference between a King and a Tyrant is not just, 186. He does not overthrow *Bellay*'s two propositions, *ibid.* He not only justifies all the Seditions of the people, but blasphemously makes God the Patron of them, 187. Some of his gross absurdities, 178. His guile and deceit, 205.

Doleman's Metaphors, with relation to the heir apparent of a Crown, consider'd, 208. His Opinion that Right is not sufficient, Confuted, 207. His Seventh Chap. part First examin'd, 210. His Examples from the old Testament, consider'd *ibid.* and 212. The General rules which are to be observ'd with relation to *Doleman*'s Examples from *Spain*, *France* and *England*, 212, 213. His example from the exclusion of *Favila*'s Succession false 213. And that of *Froila* is also false, *ibid.* As also that of *Ordonius* II. 214. His fourth example is not true, 215. His fifth of *Sancho* was ended by a transaction, 216. His Sixth in *Beatrix* of *Portugal* is false, 217. His two examples of Changing the Succession in *France* were unlawful deeds, 218. His Examples from *England* examin'd 220. His assertion, that the series of the Conquerour's Successions is broken, is false, 221. *Doleman* admires himself 224. He takes away the difference between just and unjust, calls evil good and good evil, 225. His impiety against Kings detected, 227. His Position, that Religion is to be judged, by every man's Conscience, is false, 228. His Doctrine tends to the introducing of Anarchy and Confusion, 229. All the Conditions required by *Doleman* in an Heir apparent, meet in the most serene King of *Scotland*, 230. His proposition about the exclusion of a Foreigner distinguish'd; And a foreigner, tho excluded from private Succession, yet not from the Succession of the Crown of which he is Heir, 258. That proposition of his is not true with respect to any born out of *England*, but to such only as are born beyond Sea, 264. The proposition of his Syllogism, is not true as to the descendants from a King, 277. His proposition is distinguish'd as formerly, 286. The same proposition of his quite ruin'd by the determination of *Henry* VII. and of the Kingdom of *England*, 292. Supposing *Doleman*'s Syllogism, which is clearly prov'd to be false, were true, yet nothing that can prejudice King *James* sixth's Right of Succession, can be inferr'd from it, 303, 304.

Doleman's First reason, for the right of the Family of *Lancaster*, in which he asserts, that the second Son ought to be preferr'd in the Succession of the paternal Kingdom before the Grandson by the first born deceas'd, Confuted 305. His main design is to make way for the *King* or the *Infanta* of *Spain*, and the way that he takes to compass it, *ibid.* His two wilful mistakes, 306. His ten Reasons, for the right of the Family of *Lancaster*, 307. His pretensions for *Lancaster* ruin'd by the right of representation, 310. His example of *Robert* King of *Naples* examined, 312. His Second in *Lewis* of *Tarramo* disprov'd, 313. His Third of *Sancius* and *Alphonsus* discuss'd, 314. His Fourth in *Robert* Earl of *Artois*, was universally condemn'd as unjust, 315. His Fifth of the Dutchy of *Bretaign* Confuted, His Sixth feign'd, *ibid.* His Seventh is not to the purpose *ibid.* His Eighth, impertinent, 317. *Doleman*'s assertion, that K. *Richard*, was preferr'd by the fondness of his Grandfather, false, 319. Neither was *Richard* Second's title ever question'd by his enemies, 329. On the Contrary *Henry* IV. grounded his title on *Richard*'s, as being next Heir to him. *ibid.*

Doleman's Second reason for *Lancaster* from the deposition of *Richard* II. confuted, 321. His impudence in pleading the Lawfulness of dethroning Kings expos'd, *ibid.* The Crimes alledged against *Richard* enquired into, 328. And the manner of his deposition, 332. As also, his reason, because an evil King cannot be remov'd but by force answer'd, *ibid.* and 333. His reasons for *Lancaster*'s succeeding as neareſt Heir to *Richard* II, confuted, 334. His exception that the right of the House of *York* was by a Woman consider'd, 335. His argument, from the Sentence executed upon the Earl of *Cambridge*, confuted, *ibid.* His pretended Innocency of the House of *Lancaster* consider'd, 336. The House of *York* vindicated against him *ibid.* What he says of *Richard*'s Confession, which was extorted from him, disprov'd, 337. His Objection from long possession consider'd, *ibid.* And also what he says of the prosperity of the *Lancastrians*, with the Friendship among the Princes of that Family, 338.

Doleman's Objections against the right of K. *James* VI, answer'd, 341, *&c.* His assertion that few in *England* favour King *James*'s title false, 342. Three trifling objections of his taken notice of, *ibid.* and 143. *Doleman* guilty of forgery, 343. His objection from the two Acts of Parliament answer'd, 344. His object. from the Statute of association ans. 345. His objections against the Union of the Kingdoms answer'd, 346, 347, 348, 349, 350, 351, 352, 353, *&c.* His false insinuations against the Union of the Kingdoms, 350. The disproportion of the Riches of the two Kingdoms, *ibid.* *Doleman*'s examples from *Castile* and *Portugal* examin'd, 357, 358. His objection with respect to difference in Religion, *ibid.* What he says of the Lady *Arabella*, and of the Houses of *Huntington*, *Derby* and *Hartford* consider'd, 359, 360. His arguments for the *Infanta* of *Spain* examin'd and confuted, 360, 361, 362, 363, 364, 365, 366, 367, 368, 370. His objection from the attaindure of both the Houses of *York* and *Lancaster*, 369. His pretensions for the Line of *Portugal* and *Castile* disprov'd, 371, *&c.* And for the Duke of *Parma* to the Succession, 374. And to the Dutchy of *Lancaster*,

caſter, 377. His firſt reaſon againſt the Legitimation of the Duke of *Lancaſter*'s Children by *Catharine Swinford*, 376. His Second anſwer'd, 377, 378. His objection from the King of *Portugal*'s being of the whole blood anſwer'd, 379.

Doleman unmask'd 386. *Doleman* and *Photinus* compared together, 388. His requeſt in order to his deſign of promoting a foreign Prince to the Crown of *England*, 389. He praiſes the *Spaniſh* Government, 393. His objection from the Cruelty of Domeſtick Princes anſwer'd 394. *Doleman*'s laſt argument 398.

Domitian, ſome account of that Emperour 173.

Dionyſius made himſelf maſter of *Syracuſe* 40.

E.

Education, the power of Education, 77. The neglected Education of a Prince the occaſion of great evils, 323.

Edward I. his claiming homage from the *Scots* gave the occaſion to the bloody Wars between the two Kingdoms, 356. What hindred the final Succeſs of his Wars againſt *Scotland*, 426. His Cruelty, *Ibid.* His partial Judgment with relation to the Competitors for the Crown of *Scotland*, 90. The *Scots* vindicated for ſhaking off the Yoke of his Government, 426.

Edward II. was moſt barbarouſly treated, 179. The treatment his Miniſters met with was moſt barbarous and illegal, *Ibid.* He was not depos'd by Act of Parliament, 180. His Queen who was ſtain'd with Lewdneſs concern'd in the Murder of her Husband, *Ibid.* His Character, and he vindicated, *Ibid.* The true cauſe of his fall, and what afterwards befell, the Queen and *Mortimer* his mortal enemies, 180.

Edward III. His Wars againſt *France*, and his claim to the Succeſſion of it, 180. he exhauſted *England* both of Men and Money, and yet his Succeſſor loſt all his Conqueſts in *France*, *Ibid.*

Edward III. His Statute Concerning thoſe born in the parts beyond Sea, 246. That Statute is no obſtacle in the Succeſſion of the Crown, 252. It extends to no others but to ſuch only as are born beyond Sea, 258. The King's Children, whereſoever born are expreſly excepted, 273. His judgment concerning the Heirs of the Crown of *England*, tho' not born in it, 283. By the words of that Statute, ſuch as were born out of *England*, beyond Sea, have inherited the Crown, and ought to inherit if they be next heirs, 278, 279, 280, 281, 282, 283, 284, 285. The occaſion of that Statute, 258. The words of that Statute reſpect thoſe born beyond Sea only, 259. The Rubrick of it, *ibid.* Neither the Rubrick nor the Text of it ſpeak of any Strangers but ultramarines, 259. A Statute of *Henry* VIII. agreeing with and explaining this of *Edward* III, 261. Four examples of Queen *Elizabeth*'s Statutes to the ſame purpoſe, 261. An objection againſt this anſwer'd, 262. The *Scots* were not reputed Foreigners by *Edward* III. 263. The reaſons of it, *ibid.* By the words of that Statute and conſtant cuſtom, ſuch as have been born out of the Ligeance of *England*, and even beyond Sea have inherited and ought to inherit the Crown if they be the next Heirs, 278, 279, 280, 281, 282, 283, 284, 285. Where examples are given in many Kings of *England* that were born beyond Sea, and the Judgment of thoſe, that were born in it, as to that Caſe, 186. The import of the words Father and Mother in the Statute, 293, 294.

Edward IV. receiv'd Allegiance from the Subjects for himſelf and his heirs, 141. His right recogniz'd by the Parliament, 68 Vindicated from being the cauſe of the great effuſion of Blood which was owing to *Henry* Sixth's breach of that Treaty with *Richard* Duke of *York*, 336 and 337. His wars were neceſſary for recovering his right, and therefore Lawful, *ibid.* Defeated by the Earl of *Warwick*, 68. *England*, loſt none of their territories beyond Sea in his reign, 338.

Edward V. was King of *England* notwithſtanding he was never crown'd, 303. baſely murder'd by his Uncle, 38.

Edward VI. His Father *Henry* VIII. deſired above all things to have him married to the Queen of *Scots* 347. How that deſign was diſappointed, 348. What enſued upon the diſappointment, *ibid.* His laſt will in favour of Lady *Jane Gray*, neither juſt nor effectual, 127.

Edwin, it does not appear that that King was depos'd, 179.

Election, and *Elective* Governments, 22. Arguments for them, Firſt God's being the Author of them 23. 'Tis anſwer'd 78. Where Hereditary Monarchies are prov'd to be derived from God, *ibid.* Second is from the difference between an Elected and a Hereditary King, 23. This argument is fully conſider'd, 79, 80. Where it's made appear, that in Elections wicked men are oftener choſen than good men, and that Elective Kingdoms are more liable to be govern'd by bad Princes than thoſe which are hereditary. Third from the qualifications of an Elected King, and governing's being an art, 24, 25. Anſwer'd, 81. Fourth from the Inconveniencies of an Infant King, 26. Examin'd, 81. Fifth from the Heirs being deaf, *&c.* 26. Anſwer'd, 81, 82. Sixth of Female Succeſſion, 26. The anſwer of which is at large, 82, 83, 84.

Elections, the Inconveniencies which preceed them, 29. Election in a hereditary Kingdom a mark of the people's ingratitude, *ibid.* And of their unjuſtice, *ibid*, It alters the Conſtitution of the ſtate, 30. Is obnoxious to changes, and attended with perjury, *ibid.*

Corrup-

Corruption and Ambition are two Common plagues in Elections, 50, 51, 52. Craft and Deceit at Elections, 52.

Eccleſiaſtical Elections attended with the ſame inconveniencies, as other Elections, 55. Horrid abuſes are committed at Elections as well among Chriſtians as Infidels, 61. Elections of Popes have been attended with miſchief and bloodſhed, 34. Many bad Popes Elected, of which a ſample is given, 79. Wicked men oftner choſen than good men, 79. The Inconveniencies which follow an Election when it's over, 61, 62, 63.

Election in the ſenſe of ſome Authors does not hinder the Right of Succeſſion, 211.

Elected, an Elected and an Hereditary King compared together, 70, 71, 72, 73, 74, 75, 76, 77. An Elected King's partiality in preferring his Children and Kindred, 65 They pretend the publick ſafety for their wrongful deeds, 67. They ruine the Kingdoms or Empires of which they are elected Monarchs, 66. They deſtroy the publick Revenues, 62, 63, 64. Their ingratitude towards their Friends, 65. They reſent the oppoſition made to their Election, 66. They often degenerate, 67. The Election of Inferiour Magiſtrates, 80. Of the Tribunes during the Commonwealth of *Rome*, 80. *Edward* the *Confeſſor*, his Statute whereby the *Scots* are made Denizons of *England*, 267. It was confirm'd by *William* the *Conquerour*, and by his Son *Henry* I. and his Succeſſors, 171.

Electors, who are Electors 44. They claim a power to lay aſide, 46. *Henry* V. Emperour his Rebellion and Parricide owing to Election and the Electors of *Germany*, 68.

Ely the Conference between *Buckingham* and the Biſhop of *Ely*, 381.

Elizabeth Queen of *England* her Character 85. bound by her oath not to appoint any beſides the true heir for her Succeſſor, 138. And by the oaths of her Predeceſſors, as being heir to them, 138. She cannot deſtroy the right of the true heir of the Kingdom, 139. Who is next in blood to her, 248. This point conſider'd by deſcent from the ſtock, 250. And by aſcent from her 251. The Author's enquiry is only about the lawfull Succeſſor of Queen of *Elizabeth*, 251. 342. She ſeems obliged to declare her lawfull Succeſſor in return to the dutiful behaviour of her Subjects, 401. A modeſt Apology for her not having done it already, 410. The Eulogy ſhe will merit by declaring the true Succeſſor, and conſequently uniting the two Kingdoms in *Britain*, 410. What the divine Juſtice requires of her with relation to the next Succeſſor. 420.

Emanuel King of *Portugal* his Children were begotten in Inceſt. 383.

Emperours, they were choſen by the Army and the worſt ſort of men, 55. They were not choſen by the people, 174 Many of them guilty of the murder of their Predeceſſors 174. The Emperours of *Germany*, by being Elective, have almoſt ruin'd that Empire, 66.

Eneas founded the *Trojan* Kingdom in *Italy*, 147.

England, the right of Repreſentation always obtain'd in it, 310. The Inconveniences which attended it's *Heptarchy* 428. What would be moſt for the advantage of *England*, 421. An addreſs to *England* to lay hold of the benefit of the preſent occaſion, and to agree to the concord of all *Britain*, 411. and to the end of the ſecond book. The miſeries of *England* under the *Normans*, 87, 88, 392. And under the *Danes*, 392.

England, caution'd againſt a foreign Government, 392. The Kings of *England* have often endeavour'd to unite all *Britain*, 264.

Engliſh, the inconveniences of chooſing a King from among themſelves, 421. They could not be ſuppos'd to chooſe the King of *France* or *Spain*, 424. The inconveniencies of their *Heptarchy*, 428. The *Engliſh* are lovers of Juſtice.

Ephori, they were not appointed by the people but by their King *Theopompus*, 163. *Chylon* killed the *Ephori* for depriving him of his Succeſſion, 114

Eſcheat, it cannot affect the Prince, 296, 297.

F

FAmilies little Monarchies, 14.

Ferdinand King of *Portugal* his unjuſtice to *Lawrence de Coignie*, 383.

Fiefs, the firſt Inſtitution of them, 153.

Foreign birth do's not affect the heirs of the Crown, 247. Nor hinder their Succeſſion to it, 252. Of it's riſe and in what perſons it takes place, *ibid.* The Law concerning foreign birth is not peculiar to *England*, 253, 300. It flows from the Feudal Law, *ibid.* The Reaſons for that Law againſt Foreigners, *ibid*, and 354. An objection anſwer'd, 355. The cuſtom of *France*, *Scotland*, and *Italy*, in relation to Foreigners, *ibid.* The Reaſons for excluding Foreigners from the Succeſſion, of private men, do not hold againſt the Succeſſion of the Crown, 256. The reaſon why one Foreign Prince ſucceeds rightly to another, *ibid*, and 257. *Edward* Third's Statute concerning foreigners extends only to ſuch as are born beyond Sea, 258, 259.

Foreign birth no hindrance in the Succeſſion of Princes, made appear from the opinion of the *Engliſh* themſelves in ſuch Caſes and from the Conſtant cuſtom of other Nations, 286. As the King of *England*'s being King of *France*, notwithſtanding his not being born within the ligeance of *France*, and an objection anſwer'd, 287. Nor the King of *Navarre* in *Navarre*. Examples of the Succeſſion of Foreign Princes to the Empires and Kingdoms in which they were not born, 288, 289, 290, 291. Three ways by which Kingdoms come under foreigners, 389. The miſeries of being under a foreign Prince in time of War, 396, 424.

Forfeiture cannot affect the heir of a Crown, 247.

Forgery charged upon *Doleman*, 343. *Will. Clark* confeſs'd his forgery, and got his pardon, 344.

France, great troubles were occaſion'd in *France*, by preferring the ſecond Son before the firſt born in the ſucceſſion of that Kingdom, 219. The threefold apparel of the King of *France*, on the day of his Coronation, and what meant by it, 227. The Laws concerning the Succeſſion in *France* immutable, 127. The King of *France* oppos'd the Union of *England* and *Scotland*, 421. Women allow'd to be Regents in *France*, tho' they are excluded from the Succeſſion of the Crown, 84.

Francis firſt, an Interview between him and *Henry* VIII. 416.

Frederick I. alienated *Norimberg*, 66.

Friendſhip not eaſily to be found, but among people of the ſame Country and Language, 392.

G

Galgacus's ſpeech to encourage his Army againſt the *Romans*, 390.

Garcias Ximenes recover'd the Kingdom of *Navarre* from the Moors, 150. From him the Kings of *Navarre* and *Arragon* are deſcended, 150.

General, he is not accountable to the Souldiers of his Army, 198.

Germany of old and all the Northern Nations maintain'd hereditary Succeſſion, 114. Foreigners were allow'd to ſucceed among them. 289. The ſpeech of an old *German* to the Senate of *Rome*, 391.

Nine Emperours of *Germany* killed fighting againſt one another, 68. That Empire ruin'd by being Elective, 66. *Henry* fifth's Rebellion and parricide owing to Election and the Electors of *Germany*, 68.

Geryon, the three headed *Geryon* and the meaning of it, 415.

Glouceſter, Uncle of *Richard* II. his fierce and violent temper, 323. His frowardneſs, 323. His treaſonable practices againſt the King, 324. His Plot diſcover'd, and he ſent priſoner to *Calais*, 324. The Earl of St. *Paul*'s opinion of *Glouceſter*'s behaviour, 323. His putting the King's Miniſters to death without being heard, 324. His own death, after his many attempts for taking *Richard*'s Kingdom and life from him, 328.

Good men very rare, 54. *Granada*, whilſt Election had place in that Kingdom, 15 Kings were killed within the ſpace of 21 years, 61.

Greece, It was all govern'd by Kings at firſt, 158. The Kingdoms in *Greece* were hereditary, 116.

Guſtavus Erickſon, his cunning methods for poſſeſſing himſelf of the Kingdom of *Sweden*, 39.

H

Harold's ſeizing the Crown 42.

Heir, Concerning the Calamities which have befallen Kingdoms for rejecting the true heir, 85. This made way the *Saxons* to ruine the *Britains*, 86. Occaſion'd the rooting out of the *Pictiſh* Nation, 86. Made way for the Conqueſt of *England* by the *Normans*, 87. Was the cauſe of the Wars between King *Stephen* and *Henry* II. The murdering of *Arthur* Duke of *Britany* the true heir of *England*, the cauſe of the miſeries in King *John*'s reign, 89. The bloody conteſt between *Baliol* and *Bruice* occaſion'd by the partial Judgment of *Edward* I. with reſpect to the true heir, 90. The War between the houſes of *York* and *Lancaſter*, occaſion'd by paſſing by the true heir, *Ibid.* and 91. Foreign Examples of the ſame nature. *Senacherib* murder'd by his Sons for preferring their younger Brother, 92. The fate of *Atreus* and *Thyeſtes* ſprung from the ſame cauſe. Neglecting the true heir occaſion'd the *Theban* War, and the miſerable end of the Sons of *Oedipus*, *Ibid.* *Paryſatis*'s unjuſtice in preferring her younger Son before the firſt born, occaſion'd the ruine of the younger Son, and great blood ſhed, 93. The Sons of *Ariſtodemus* by being made equal in the Kingdom loſt it, *Ibid.* The fate of *Corbis* and *Orſua* and *Agathocles*, *Ibid.* Inſtances in *Ægypt* of the bad conſequences of diſinheriting the rightful heir, *Ibid.* *Cleopatra* preferr'd her younger Son and was killed by him, *Ibid.* *Pruſias* intending to diſinherit *Nicomedes* his firſt born had the ſame fate, 94. More inſtances in the *Epirots*, *Getæ*, *Siſenandus* and *Henry* of *Caſtile*, *Ibid.* The care of the *Hungarians* in preſerving the right of the true heir, 95. *Milan* by rejecting the true heir fell under a foreign power, *Ibid.* St *Lewis* preferring his third Son before the true heir occaſion'd a bloody War in *France*, *Ibid.* The violation of the right of *Primogeniture* amongſt the *Turks* the true cauſe of Parricides and Fratricides ſo frequent there, *Ibid.*

Heir of the Crown, his being of half blood does not hinder his Succeſſion, 247.

He Succeeds to the perſonal Eſtate as well as to the inheritance of the Crown, 248. Such things as hinder Succeſſion in Fiefs do not affect the heir of the Crown, 295. Treaſon in the next heir of a Crown do's not hinder his Succeſſion to it, 297.

The next heir Succeeded as well to the depriv'd as to the deceas'd King, 183.

The compariſon between an Heir apparent and a Spouſe betroth'd do's not hold, 228. *Doleman*'s other compariſons conſider'd, 208.

Heliogabalus choſen for his Comelineſs, 43. His Succeſſion in the Empire was not owing to Right of blood, 174.

Hengiſt who firſt erected an *Engliſh-Saxon* Kingdom in *Britain* did not derive his power from the People, 148.

Henry I. King of *England*, married *Mathilda* Daughter of the King of *Scots*, 87. He reckon'd that he made the title of his Children to the Crown of *England* better by that marriage, 88. He had allegiance ſworn to him and his heirs, 140. His behaviour

haviour towards his Brother *Robert* enquired into, 361, 362. He was Heir to his Brother *Rufus*, 362. All his Children, *Maud* excepted, were loſt in a ſtorm, 87. His Offſpring by *Maud* remain to this time, 361.

Henry II. had allegiance ſworn to him and his Heirs, 140. He caus'd his Eldeſt Son to be Crown'd, 400. The behaviour of his Sons towards him, 400.

Henry III. the faults of his Father did not hinder his Succeſſion, 223. Was aſſiſted by the *Scots*, 356. The King of *Scotland* afterwards oppos'd him with a great army, 353. His Subjects violated their allegiance to him, which occaſion'd a Civil War, 179.

Henry Duke of *Hertford* and *Lancaſter* his baniſhment, and the cauſe of it, 325. He violates his Oath, 326. His ſecond Perjury, 327. He arrogated the Kingdom to himſelf having dethron'd his Sovereign, 327. Nothing worthy of Commendation in him, 181. The Grounds of his claim to the Crown, 320. The notable Speech of the Biſhop of *Carlile* againſt this *Lancaſter* afterwards called *Henry* IV. 327. He obliged the Subjects to ſwear Allegiance to him and his Heirs, 140. Was tortured with the racks of his guilty Conſcience, 330. Was not neareſt Heir of *Richard*, 334. One reaſon for all againſt him, 340.

Henry V. had been very diſſolute in his Youth, and afterwards became a great Prince, 111. To Conquer *France* he exhauſted *England* of its Men and Money, 181. His reign was ſhort, 91. His Son loſt what he Conquer'd, 91.

Henry VI. was not an ill man, 181. His misfortunes made way for the Right Succeſſion, *ibid.* His breach of the Treaty between him and *Richard* Duke of *York*, the cauſe of great bloodſhed, 337. In his Reign all *France* was loſt to *England*, 91.

Henry VII. was attainted by the Parliament and baniſh'd, and afterwards own'd by it, 68. That attainder did not hinder his Succeſſion to the Crown, 336. Allegiance Sworn to him and his Heirs, 141. His behaviour towards *Stanley*, 56. The iſſue of *Henry* VII. and *Elizabeth* Heireſs of *York*, 249. His judgment concerning the Children of his eldeſt Daughter *Margaret* with regard to the Succeſſion, 290. It was a *Declaration of Right*, 291. He was the Chief Prince of the Houſe of *Lancaſter*, 373.

Henry VIII. two faults in him modeſtly taken notice of, 130. Allegiance ſworn to him and his Heirs, 141. His Statute concerning the Kings Succeſſion, *Anno Regni* XXV. 246. The import of that Clauſe by which the Nomination of his Succeſſor was granted him, 135. That Clauſe ought to be conſtructed according to Juſtice and Equity, 135, 136. Eſpecially ſeeing the diſpoſing of a Kingdom by a *Laſt Will* was look'd upon as a wonder, 137. Had *Henry* VIII. appointed any Succeſſor beſides the true Heir, he had acted contrary to the intention of the Eſtates of the Kingdom expreſt in that Statute, 137, 138. It was extravagant in him to aſſume that power, 131. But he did not make uſe of that privilege which he took from the Parliament, 131. He did Juſtice at laſt to the true Heirs of the Crown, 131. His Judgment as to the ſettling the affair of the Succeſſor, 405, 406. He never ſuffer'd the leaſt contempt of his Laws to go unpuniſh'd 141. That *Laſt Will* (ſaid to be his) in favour of the Houſe of *Suffolk* was forged, 343. The forger and Forgery diſcover'd, 344. It was cancelled by the Parliament and expunged out of the Regiſter, 345. The Interview between *Henry* VIII. and *Francis* I. near *Calais*, 416. And that between him and *James* V. King of *Scotland* diſappointed, 417. He offer'd his Daughter *Mary* in Marriage to King *James* V. thereby to procure the Union of the two Kingdoms in *Britain*, 417. He afterwards deſired earneſtly to have his Son Prince *Edward* married to *Mary* Queen of *Scots* for the ſame end, 347.

Henry IV. Emperour of *Germany* put every thing that belong'd to the Empire to Sale, 66. He was depos'd for diſpleaſing the Pope, 68.

Henry V. Emperour parted with *Siena* for Money, 66. His rebellion and parricide owing to Election and the Electors, 68.

Henry VI. Emperour ſold the Kingdom of *Arles*, 66. *Henry* II. K. of *France*, a remarkable account of him, 333.

Heptarchy, the Inconveniencies of the *Engliſh Heptarchy*, 428.

Henry of *Lorrain* having recover'd *Portugal* from the *Saracens*, erected it into a Kingdom, 150.

Hengiſt erected the firſt *Engliſh Saxon* Kingdom in *Britain*, 148. He did not derive his power from the People, 149.

Hereditary Kingdoms are patrimonial and do not conſiſt in a bare adminiſtration, 152. An Hereditary Monarchy attended with feweſt inconveniences, 75. Not ſo liable to be govern'd by bad men as where Election hath place, 80.

Hiero made himſelf Maſter of *Syracuſe*, 46.

Hugh Capet got poſſeſſion of the Kingdom of *France*, and was the firſt who gave Inheritances in it, 153.

Hubert Arch-Biſhop of *Canterbury*, ſome Character of him, and his remorſe, 317.

Humera his ſtrange Ambition, 3.

Hutin, *Lewis Hutin's* Grandſon's Rebellion, and the ſtrange judgment that befell him, 195.

I

Jacob diſpos'd of his Conqueſt to his Son *Joſeph*, 362.

Jagellon united *Lithuania* to *Poland*, 427.

James IV. King of *Scotland*, his marriage with *Margaret* the eldeſt Daughter of *Henry* VII. was with a view to the union of the two

two Kingdoms, 290, 291.

James V. had *Mary*, at that time the only Child of *Henry* VIII, offer'd him in marriage, 417. He married *Magdalen* a Daughter of *France*, *Ibid.* The Interview between him and *Henry* VIII. diſappointed 417.

James VI. His title own'd by *Doleman* himſelf preferable to thoſe of all other Competitors, 341. 'Tis prov'd to be the beſt from another conceſſion of the ſame adverſary, 396. The grounds of his Right to the Succeſſion of *England* from the Law of God, 420. from natural Juſtice; the Law of Nations and the municipal Laws, 421. He is the true heir and Prince of both the Families of *York* and *Lancaſter*, 385. He is the only Repreſentative of *Henry* VIII. after the deceaſe of Queen *Elizabeth*, 407. He cannot be reckoned a Foreigner in *England* his Father having been an *Engliſh* man, 292. The import of Father and Mother in the Statute conſider'd, 393. 'Tis not neceſſary to his being an *Engliſh* man that both his parents be *Engliſh*, prov'd by the Civil and Common Law, 294. It is clearly prov'd that he is an *Engliſh* man, 427. His Succeſſion will be for the honour of *England*, 420. He is preferable before the other Competitors, tho he had not the beſt right, 424.

Janizaries, their behaviour during the *Interregnum* that's between the death of their Emperour and the advancement of his Succeſſor 35.

Joanna Queen of *Naples*, ſo much extoll'd by *Doleman*, her true Character and Marriages 313.

Joaſh, his Ungratitude 65.

Jeſuites, their Idolatry reprov'd, 228.

Incendiaries their main drift 159.

Inheritances were firſt given in *France* by *Hugh Capet*, 153.

The Inheritance of the Crown cannot be divided, 248.

There is not a greater offence againſt God than the excluding the true heir from his Inheritance, 225. Nor any greater inſtance of Injuſtice, *Ibid.*

Interregnum, the Inconveniencies of it, 31. 32. The remedies againſt it's Inconveniences ineffectual, 33, 34, 35, 36, 37. The Adminiſtration of Juſtice is not to be expected during an *Interregnum* 32.

Interregnum's in the *Roman* Empire how miſchievous, 33.

Interregnum's in the Papacy, 33, 34.

Interrex, no ſufficient remedy againſt the miſchiefs of an Interregnum, 37.

Interrex's, during the Interregnum are Kings, 38.

The arts of ſuch *Interrex's* for ſecuring the Kingdom for themſelves, and how fatal they have been to Kingdoms and States, 38, 39, 40, 41, 42. They are not able to puniſh Crimes nor adminiſter Juſtice, 42. The difference between an *Interrex* and the Adminiſtrator of *Jacens hæreditas*, 37.

John King of *England*, the methods by which he got the Crown, 281. He offer'd to Subject *England* to *France*, to *Miramolin* and did at laſt ſubject it to the See of *Rome*, 202. His faults ought not to prejudice his Poſterity, 223. Whether or not he was Author of the murder of *Arthur* Duke of *Bretaign*, 365. He receiv'd Abſolution from the Pope by his Legate *Pandulphus*, 365, 366. His depoſition enquir'd into, 367, 368. 'Twas not the Eſtates of the Kingdom but a faction of the Barons, which depos'd King *John*, and brought in the *Dauphin* of *France*, 368. *Collingham* and others adher'd to King *John*, *ibid.* The proceedings of Barons in favour of the *Dauphine* againſt King *John* not ſufficient to Un-King the one nor make the other a King, 368. They repented of what they had done and drove out the *Dauphin*, *ibid.*

John died King of *England*, 379. They who pretended to depoſe King *John* did undo that deed, 367, 368.

John of *Gaunt* Duke of *Lancaſter*, he was Guardian of *Richard* II. 322. He did not take care enough of the Education of that Prince, 323. *Richard's* kindneſs to him, *ibid.* He was Lord High-Steward at the trial. and condemnation of *Arundel*, and by that Sentence condemned his own Brother *Glouceſter*, 325. His Marriages and the Iſſue which he had by them, 376. *Doleman's* Objections againſt his Children by his third Marriage, 376. Of the Legitimation of his Children by that Marriage with *Catharine Swinford*, 377, 378, 379. They were Legitimated by the King's Authority, an Act of Parliament, and the ſubſequent Marriage, 382. They were born in the time that interven'd between his firſt and ſecond Marriage, 280. He and his Brothers *York* and *Glouceſter* aſſiſted at the Coronation of King *Richard*, 322. *Richard* II's kindneſs to him, 323.

John Dempſter how uſed by the procurators at *Paris*, 49, his Character, *ibid.*

Joſhua and the other Commanders of the *Iſraelites* were rais'd up by God and not by the People, 145.

Irene the Empreſs was not depos'd as *Doleman* alledges, 174.

Iſabella, the *Infanta* of *Spain*, her pretenſions to the Crown of *England*, examin'd and confuted; 360. The fourfold right that *Doleman* makes for her conſider'd, 361. *viz.* That from the Conquerour's Daughter excluded by the deſcendants from a Son of the Conquerour, 361, 364. The Second from *Eleonor* the Daughter of *Henry* II. excluded by the deſcendants from his Son *John*, 365. His Third from the Depoſition of K. *John* examin'd, 367. His Fourth from the Attainder of both the Houſes of *York* and *Lancaſter* confuted, 369. A general Axiome of the Common Law of *England* ruines all the *Infanta's* pretenſions, 370.

Iſraelites, two Kingdoms among them the one Elective, and the other hereditary, 69.

Julius Cæſar was not killed by the Authority of the Comonwealth, nor of the Senate, 172. Great bloodſhed and deſtruction oc-

occaſioned by it, 173.

Juriſdiction of Subordinate Magiſtrates ceaſeth by the death of the King, 31.

Juſtice, the Reveal'd will of God and right reaſon the rule of Juſtice, 168.

Juſt, and unjuſt the ſame thing with *Doleman*, 225.

K

Kindred, the Kindred of Elected Kings preferred to all places of truſt, honour and advantage, 66.

Kingdoms were inſtituted by God, 157. Great miſchiefs attend the dividing Kingdoms, 218.

Kings derive not their Kingdoms from the people but from God, as their immediate Author, 144. This propoſition prov'd from Scripture, 145, 146, 151. They have a vicarious and delegated power, but it is delegated by God, 189. 'Tis much leſs lawful for Kings than for private men to do wickedly, and yet they are accountable to God only, *ibid.* A wicked King is a Judgment ſent from God on the People, *ibid.* Negligence even in guarding a wicked King a Capital crime, 191. Many good men have liv'd under wicked and Idolatrous Kings, and have been obedient to them, *Ibid* and 192. Such examples ſhould teach us moderation, 192. A King cannot be accus'd by his Subjects, no more than a Maſter could be accus'd by a *Libertus*, or a Lord by his Vaſſal, *Ibid.* Neceſſity excuſes all Kings from being accountable to their Subjects, 197. An accountable King unable to adminiſter Juſtice, *Ibid.* The multitude becomes unaccountable where Kings are accountable, *Ibid.* If Maſters of Families are not accountable to their Family, neither are Kings to their Subjects, *Ibid.* Another argument of the Kings being unaccountable from Generals of Armies not being accountable to their Souldiers, 198. The power of a people over their King is not to be endured, *Ibid.* Abdicating a King involves a Nation in grievous Calamities, *Ibid.* Some renown'd Kings never ſate on the Bench, nor ſaw a Camp, 227.

Kings are not the leſs Kings tho' they never ſwear the Coronation Oath, 200.

Different ways of inaugurating Kings were taken by different Nations, 203. Kings and Emperours that were never crown'd, *Ibid.*

The King is not puniſhable by the people, tho' the obligation between him and them were mutual, 206. Kings admoniſh'd, 150, 175.

King's Children being under age, the next in Blood reign'd ſometimes during life, 221. A King may be judge in his own Cauſe in ſome caſes, 298. The meaning of *decedere ad fidem & pacem noſtram*, to die in the King's faith and peace, 255. Plurality of Kings has been the ruine of many Kingdoms, 417, 427.

The Life and Reign of a King, not lawfully called to a Kingdom, is unquiet, 418.

The Inconveniencies which would attend the chooſing a King from among the *Engliſh* themſelves, 421.

The only Caſe wherein a King may be diſown'd by his Subjects, is when he Un-Kings himſelf, 202.

L

Lancaſter, the Kings of that houſe were declar'd in the Parliament *Anno Dom.* 1461. to have been Kings *de facto* but not *de jure*, and were called pretenced Kings, 336. The conteſts between the Houſes of *Lancaſter* and *York* how fatal to *England*, 90, 91. The pretended innocency of the Houſe of *Lancaſter* conſider'd, 336. As alſo their Succeſs and the friendſhip between the Princes of that Houſe, 338, 339. One reaſon for all againſt *Henry* IV. of *Lancaſter*, 340. The pretenſions of the Houſe of *Lancaſter*'s right being diſprov'd, no place is left for any claim to the *Infanta*, or King of *Spain*, 341.

Lawful, a thing is ſaid to be lawful that's done according to Law, 183, 184 The lawfulneſs of any fact ought to be tried by the Laws and not by examples, 224. What is lawful and right ought to be preferr'd before what is profitable, 386. A remarkable example to this purpoſe from *Xenophon*, 387, Another from the *Athenians*, *ibid.*

Lawrence de Coignie how uſed by *Ferdinand* King of *Portugal*, 217.

Laws divided into the Divine Law, thoſe of Nature, of Nations and the Civil Law, 96. Monarchy from the Law of God, 9, 10. Of the Law of God, 96, 97. That Law appoints and authorizes hereditary Succeſſion in Kingdoms and Families, 98, 99, 100, 101, 102, 103, 104, 105, 106. No man can diſpence with the Laws of God, 120.

By the *Canon* Law, no man ought to be condemn'd unheard, 126. The diſtinction between dominion and adminiſtration receiv'd by that Law, 155.

Law Municipal, by that Law Monarchy every where obtain'd, 17. Of the Municipal Law of *England*, and who is by that Law heir of that Kingdom, 245. That Law largely treated by the Author throughout his ſecond book, with relation to the heir of the Crown. They cannot ſo far as they reſpect the Succeſſion be diſannull'd, 124.

Law of Nations, 112. Difference between the Law of Nations and the Law of Nature, *Ibid.* By the Law of Nations Monarchy hath always been receiv'd, and ought to be maintain'd, 17, 18, 19, 20, 21. Hereditary Succeſſion by the Law of Nations, 113, 114, 115, 116, 117, 118, 119. Princes are under the obligation of the Law of Nations, 123.

Law of Nature, Monarchy derives from the Law of Nature and is moſt agreeable to it, 11, 12, 13, 14, 15, 16. Hereditary Succeſſion

ceſſion flows from the Law of Nature, 107. That Law diſtinguiſh'd, *ibid.* Succeſſion in Kingdoms is from the Law of Nature, 110. The difference between the Law of Nature, and the Law of Nations, 112. Natural Laws cannot be diſannull'd by a Prince, 122.

Laws mutable and immutable, 129. Diverſe examples of immutable Laws as to the Succeſſion, 127.

The *Prætorian* Law for Hereditary Succeſſion, 113.

The *Imperial Law* confirm'd Hereditary Succeſſion, 113, 114. An objection from it, for the Royal power it's being deriv'd from the people, anſwer'd, 152.

The *Civil Law* much the ſame with the Law of Nations, it has place in all Nations in *Europe*, 114. Princes cannot diſpenſe with ſome things eſtabliſh'd by the Civil Law, 124. The diſtinction between dominion and adminiſtration receiv'd in that Law, 155.

The Feudal Law the diſtinction of Adminiſtration and dominion receiv'd in it, 155. The Law againſt foreigners flow'd from the Feudal Law, 253. The Milanoiſes pretend to the greateſt skill in the Feudal Law, 255.

Law of the XII. *Tables* with regard to Hereditary Succeſſion, 113. Approv'd of by the Emperours, *ibid.*

Legitimation of Children, by a ſubſequent Marriage fully treated on, 377, 378, 379. A Prince cannot Legitimate his Baſtard to the prejudice of the true Heir, 124. Legitimation by ſome made equal in Law to Adoption, and by others preferr'd before it, 377. Difference in Legitimation between Sons and Daughters, 378.

Lewis Carloman, and *Charles* the *fat* not Kings of *France*, but only tutors to *Charles* the ſimple, 176.

Lewis Sirnam'd the *Pious* his behaviour in relation to his Children, 118.

Lewis the *Bavarian* ſold and alienated *Egra* from the Empire, 66.

Lewis Hutin a dreadful example in the puniſhment of his Grandſon *Charles*'s Rebellion, 195.

Libertus, cannot be made a free born man by the Prince, without his patrons conſent, 124. Nor without the conſent of the Patron's Son, *ibid.*

Liberty commonly makes all men worſe, 57.

Lionel Duke of *Clarence*, his poſterity after *Richard* II. had the true right to the Crown, 334, 335.

Lithuania was united to *Poland* by Marriage, 427.

Lycurgus's notable ſaying in relation to popular Governments, 20.

Lyſander's ambition to be King of *Sparta* made him endeavour to corrupt the Oracles of *Hamon* and *Apollo Delphicus*, 52.

M

Macedonia an hereditary Kingdom, 117.

Madmen loſe not their Inheritance and property but only the adminiſtration of it, 154, 155. The adminiſtration may be committed to the next heir, by the authority of the Scriptures, the Civil, Feudal and Canon Law, but always without prejudice to them and their heirs, 155. Examples both from the Sacred Scriptures and other hiſtories of ſuch as, notwithſtanding their being *non Compotes*, reign'd, 156.

Magiſtrates, the juriſdiction of Inferiour Magiſtrates ceaſeth by the Death of the King, 31.

Mahomet III, his Cruelty to his Brothers, 96.

Mahometan, He ought not to be depriv'd of his Eſtate, 154. Tho he may loſe the adminiſtration of it, 156.

Mammalukes their firſt inſtitution, 60. Their execrable practice in chooſing their *Sultan*, 36. The only thing they minded in chooſing a new *Sultan*, was his Riches which he was obliged to diſtribute among them, 60. They often murdered their Sultans, that they might have new Donatives at the Election of his Succeſſor, 60. And took care to ſecure impunity to themſelves, *Ibid.* The deſtruction of their Kingdom owing to the treachery and Covetouſneſs of their Commanders, 61.

Margaret Siſter of *Edgar Etheling* was married to *Malcolm* III. K. of *Scotland*, 87. After her Brother's death ſhe was true heir of *England*, 87. By that marriage the right of the Succeſſion to *England* devolv'd to the *Scots*, 369.

Mary Queen of *England*, was offer'd in Marriage to *James* V. King of *Scotland*, 417. She did not Succeed by vertue of the Statute of *Henry* VIII. but by her birthright, 131, 134. *Edward* VI's laſt Will in favour of the Lady *Jane Grey*, could not hinder Queen *Mary*'s Succeſſion, 127. The people were more active than the Nobility in raiſing her to the Throne, 44. She endeavonred in vain to reſtore the Monaſteries, 359. She pardon'd *Clark*, who was convict of having forg'd that paper that went under the name of *Henry* VIII's, laſt Will, 417.

Mary Queen of *Scotland*, A Marriage agreed to by treaty between her and *Edward* Prince of *England*, 347. What hindred it from taking effect, 348, Her great accompliſhments, 84. Her impriſonment in *England* was contrary to the Law of Nations, 345.

Maud the Empreſs had allegiance ſworn to her by the *Engliſh*, 140.

Maxentius was not the Son of *Maximianus*, 174.

Medes their Empire was hereditary, 115.

Medices, That Family Monarchs of *Florence*, 21.

Megabyſus, his Speech for *Ariſtocracy*, 18.

Milan

Milan by rejecting the rightfull heir fell under a foreign power, 95. The Milanoiſe's pretend to the greateſt Skill in the Feudal Law, 255.

The Miniſters of an Elected King, 25.

Mithridates gives his Judgment concerning the behaviour of the *Romans*, 390.

Monarchy is the moſt ancient and beſt of all Governments, 5. It was always the Government among God's people, 9. Monarchy proceeds from the Law of Nature, 11. And from the Law of Nations, 17. It's excellency, 18. The ſpeech of *Darius Hiſtaſpis* in favour of Monarchy, 18. *Licurgus*'s notable ſaying to the ſame purpoſe, 20. Monarchy has place even among brutes, 12, 13. *Monarchy* own'd by *Doleman* himſelf to be the moſt excellent and perfect form of Government, 160.

Elective and Hereditary Monarchs compared together, 70, 71, 72, 73, 74, 75, 76, 77. and it is made appear that the preference is due to the hereditary Monarchs.

All the ſeeming advantages of Elective Monarchies in the pages 22, 23, 24, 25, 26, 27, 28. are conſider'd from 76. to p. 85.

The miſchiefs which attend Elective Monarchies are fully treated on from p. 29, to 70.

Monſter, a double headed Monſter mention'd by St. *Auguſtine*, 414.

Another double headed Monſter, of which *Buchanan* gives account, 414. That Monſter compared to *Britain* while under two Monarchs, 415.

Moſes was King over God's people, 9. He was appointed by God to be Leader and Ruler of that people, without their knowledge or conſent, 145. He choſe the Elders by God's expreſs appointment, to judge the people, 161.

Multitude or *Mob*, ſome examples of their madneſs and inconſtancy, 45, 46, 47. Another memorable example of the Multitudes madneſs, 327. 'Tis not eaſy to diſpatch an affair, wherein the multitude have votes, 21, 53. The votes of the Multitude are number'd but not weigh'd, 53,

Municipal Law of *England*, and who by that Law ſhould be call'd to the Succeſſion, 245. and throughout the ſecond book.

N

NAtions, all Nations originally agreed in being under Monarchy, and that Government univerſally obtain'd by the Law of Nations 17, 18, 19, 20, 21.

Natural Rights cannot be annull'd by any Prince, 122.

Nature, The Law of Nature taken in a twofold ſenſe, 11. The true ſignification or import of the Law of Nature, 13. In it's largeſt acceptation, it's common to men with brutes, 11. But in its proper acceptation it's peculiar to men only, 13. Nature has made a great diſparity among men, 13. Nature diſpos'd men to Monarchy before there were written Laws, 14. Nature, or that univerſal diſpoſition in Mankind whereby they were prompted to live under Monarchy, is not to be eaſily rooted out, 16.

Natural affection appears in brutes whereby they are diſpos'd to take care of their young, 107. Natural affection towards ones Children cannot eaſily be deſtroy'd, 131.

Nero, his end, and what follow'd upon it 173. 165.

Nimrod, the firſt King, and his Character, 7, 8.

Nobility, they ſeem'd to be againſt Queen *Mary*'s acceſſion to the Crown, 44. The Nobility more apt to be corrupted with bribes at Elections than the people, 50. They are ambitious at Elections, *ibid*, and, 51. The ſtrange ſtory of *Lyſander*, a noble *Spartan*, for getting himſelf made King, 52. The Inconveniencies which would enſue ſhould *England* chooſe one of their own Nobility to be their King, 421, 422.

O

OAths, the firſt Oath is always to be kept, 141. difficulty as to this caſe reſolv'd, *ib.* Of the Coronation Oath, 200. The Oath is not mutual, *Ibid.* an objection againſt this anſwer'd, *Ibid.* Coronations and Coronation Oaths are only declaratory of Right, 202. Kings that never took the Oath, 203. They are nevertheleſs Kings, *non obſtante* 200. 'Tis only a ſolemnity and not eſſential to ones being a King, 204. Heirs are obliged to perform the Oath of their Parents, 141. Q. *Elizabeth* obliged, by her own Oath, and the Oaths of her Predeceſſors, not to appoint any Succeſſor beſides the true heir for her Succeſſor, 138, 141.

Odo Earl of *Paris* was only Guardian, and not King of *France*, 368.

Opportunity, the preſent opportunity is not to be neglected, 418.

Otanes, his ſpeech for Democracy, 18.

Otho III. Emperour ſold *Iſne* from the Empire, 66.

P

PArable, that Parable in *Luke*, xix. recommended to the Conſideration of good men, 229. How far we may reaſon from Parables, 106, 229.

Parents, their care chiefly reſpects their Children, 108.

Parliament, the power of Parliaments, 132, 133. Of the invalidity of Parliamentary Statutes with regard to the Succeſſion, 134. Such as owe their Succeſſion to a Statute of Parliament cannot be called Natural Princes, 134.

Parma

Parma, the Duke of *Parma* loſt his right to the Dutchy of *Lancaſter*, for not demanding the Inveſtiture, 376. And for his hoſtilities againſt his Superiour, 377. He is uncapable of an inheritance in *England*, as being the vaſſal of other Princes, 377.

Parthia an hereditary Kingdom, 116.

Paryſatis, her unjuſtice to her Eldeſt Son, 93. Her fondneſs for her ſecond Son occaſion'd his ruine, *ibid.*

Patron, his conſent and his Son's indiſpenſably neceſſary before a Prince can give a *Libertus* the Privileges of the free born, 124.

Paul III. Pope, beſtow'd *Parma* and *Placentia* which belong'd to the Church on his Baſtard, 64.

People at firſt willingly ſubjected themſelves to ſuch as were able to protect them, 151. In ſhifting their Country they were obedient to their Commanders but preſcrib'd no Laws to them, 152. God's people had their Kings and Rulers appointed them by God himſelf without their own knowledge or conſent, 145, 146. The diſtinction, between the people in the Common-wealth and the Commonwealth it ſelf, overthrown, 193. People become unaccountable where the Kings are accountable, 197. Their Condition is very miſerable, under a foreign Prince, 388.

People at their pleaſure cannot alter the receiv'd form of Government, 157. When once an Election takes place, they are unwilling to return to an hereditary Monarchy, 59. Regard ought to be had of the people at the Election of a King, 44. The Inconveniencies which attend ſuch Elections, 45. Some inſtances from hiſtory of the madneſs of the people, 45, 46, 47, 327. No Authority remain'd with the people after the Imperial Law, 185. The ſins of the People the faggots of Tyranny, 199. They are forbidden in the Word of God to riſe up againſt even evil and impious Princes, 187, 188.

The peoples power over Kings is not to be endured, 198. Did people impoſe Laws upon their Kings they muſt have power over them, but they always had their Laws from their Kings, 161.

Pelagius made himſelf King of *Galicia*, &c. and not the people, 150.

Pepin's poſterity loſt the Kingdom by the like perfidiouſneſs, wherewith they acquired it, 175.

Percie two Earls of that name took arms againſt *Henry* IV. 336.

Pericles Quæſtor of *Athens* to prevent giving an account of his adminiſtration, commenced the *Peloponneſian* War, whereby his Country was ruin'd, 41.

Perſia, its Kings were hereditary Monarchs, 115. They uſed to declare their Succeſſors before they went to War, 403.

Peru was an hereditary Kingdom, 119.

Pharamond was not choſen by the people, 149. *Peter* King of *Caſtile*, 178.

Philip II. King of *Spain*, whether or not the two titles of *Caſtile* and *Portugal* met in him, 371. Neither he nor his Son *Philip* III. had any right to the Kingdom of *Portugal*, 373. His great Armado ſent againſt *England* was ſtrangely deſtroy'd, 333. He is not obliged to his partizan *Doleman*'s doctrine, 333. *Phrygians* their late wiſdom, 418.

Photinus compared with *Doleman*, 388.

Picts, the utter ruine of their Kingdom owing to their rejecting the true heir of it, 86.

Piſiſtratus made himſelf Maſter of *Athens*, 40.

Poland impair'd and miſerably divided by being an Elective Kingdom, 64. It was formerly Hereditary, 119. Foreigners were allow'd to Succeed in it, 289. It had *Lithuania* united to it, by the Marriage of the Heireſs to *Jagellon*, Duke of *Lithuania*, 427.

Popes ſtrange cuſtom in chooſing the Popes, 36. Popes choſen by corrupting the Cardinals, 51, *Henry* IV. having diſpleas'd the Pope was depos'd by him, 68. The Popes preferr their own kindred, 66. Wicked Popes, 79. They diſpenſe with Baſtardy in themſelves, 297.

Portugal, it's Kings could not alienate any part of their Furniture on their death Bed, 137. The title to it was not declared in the life time of their King *Henry*, 371. The Offſpring of King *Emmanuel*, 372. The Pretences of the Line of *Portugal*, to the Succeſſion of *England*, examin'd, 372. The whole race of *Portugal* ſtain'd with Baſtardy, 383. Their King *Emmanuel*'s Children were begotten in Inceſt, *ibid.*

Poſſeſſion, the Argument from long poſſeſſion conſider'd, 337.

Princes, they are under the obligation of the Laws of God, and no power on earth can diſpenſe with them, 120, 121. They cannot diſpenſe with Natural rights, or ſuch as are by the Law of Nature, 122. They are under the obligation of the Law of Nations, 123. They cannot diſannull any Succeſſion that is by the Municipal Law, 124. They cannot alter the fundamental Laws of Kingdoms, 126, 127, 128, 129.

'Tis expreſly forbidden in the word of God to riſe up againſt even wicked Princes, 187, 188. The examples of good men, who were faithful and obedient to wicked Princes ought to be minded, 192. Negligence in guarding a Prince, tho' wicked, is a Capital crime, 191. Examination to preceed the puniſhment of a Prince, 192. There are none who can Lawfully either accuſe or judge a Sovereign Prince, 192, 193. They who preſume to judge their Prince invade Gods prerogative, 193. The unlawfulneſs of rebelling againſt or accuſing Princes, 194. And Gods Judgments againſt ſuch as do it, *Ibid.* and 195. The condition of Princes would be miſerable were their Subjects ſuffer'd to be their Accuſers, 196. Many famous Princes have been ruin'd by

by popular malice, *Ibid.* In danger of their Lives and their Virtues traduced as vices by malicious people, *Ibid.*

Prieſthood, It was hereditary among God's people, 98.

Primogeniture, It's right ought always to be preſerv'd, 209. The violation of that Right the cauſe of ſo many Parricides and Fratricides amongſt the *Turks*, 95.

Procurators, the Inconveniences which attend Procurators, 48. They are often corrupted with bribes, *Ibid.*

Proſperity oft-times corrupts mens manners, 56, 57, 58.

Protector of *England* in the Reign of *Edward* VI. his Letter to the *Scots* for an Union of the Kingdoms, 347, 348.

Pruſias by endeavouring to diſinherit the firſt born, occaſion'd his own Death, 94.

Ptolemy, three of that name Kings of *Ægypt* of whom there is ſome account given, 410.

Publick, The Eſtates of all private men are in danger when the publick is embroil'd, 3, 425.

Pyrrhus, his laſt Will was travers'd by the *Epirotes* as being againſt the Right of *Primogeniture*, 94.

R

Ranulphus de Glanvilla, his Rule concerning the Succeſſion, 373.

Rebels, God's Judgments againſt Rebels, 194, 195.

Repreſentation, the Right of Repreſentation always obtain'd in *England*, and by that Right, the Grandſon by the Eldeſt Son deceas'd Succeeds in the Inheritance before the Uncle, 310. The Doctors of the Law are for the Right of Repreſentation, 308, 309. What *Doleman* brings from *Bartolus* conſider'd, *Ibid.*

Juſtinian declares expreſly for the Right of Repreſentation, 310. The Feudal Law is expreſly for it, *Ibid.* Nothing will be found either in the Civil or Canon Law that's contrary to it, 311. *Doleman*'s examples againſt the Right of Repreſentation, examined, 312, 313, 314, 315, 316, 317. The Right of Repreſentation was obſerv'd in *Portugal*, and in *France*, 318. As it was in *England*, 319, 320.

Republicks, their riſe, 159.

Reſiſtance threatned with Damnation, 198.

Revolutions in States are brought about by force and not by the people, 160.

Richard I. his behaviour towards his Father, 400. He declar'd the next heir, his Succeſſor, 281.

Richard II. falſely libelled by *Doleman*, 322. as he was by the mercenary writers, who liv'd under the *Henrys* IV. V. and VI. 322. His Education neglected by the Duke of *Lancaſter*, 323. The Duke of *Glouceſter*'s intolerable behaviour towards *Richard*, *Ibid.* His treaſonable crimes againſt him, 324. *Richard* was not altogether to be excuſed, 325. *Arundel*'s unaccountable behaviour, *Ibid.* *Hertford*'s accuſing *Richard* to his face procured his baniſhment, 325. He violates his Oath to *Richard*, 326. His ſecond perjury, 327. He forced *Richard* to reſign to ſave his Life, *Ibid.*

The notable ſpeech of the Biſhop of *Carliſle* for *Richard* againſt *Lancaſter* 327. The Crimes alledged againſt *Richard* were moſt of them either frivolous or falſe, 328. The manner of depoſing *Richard* examin'd 332. His Confeſſion was extorted from him, 337. The procedure againſt him compar'd with that of the Emperour *Henry* VII againſt *Robert* King of *Sicily*, 329. The lamentable Death of *Richard*, 330. His Character of being a moſt humane and mild Prince, from *Froſart* and *Walſingham*, 328, 331. Who was next heir of *Richard* II. 334.

Richard III. when he was protector of *England*, impriſon'd the young King, and even by the ſuffrages of the people took the Kingdom, 38. He was Crown'd, 206. Yet he was an Uſurper, 181, and a Tyrant, 180. He was ſlain in Battel, 181.

Richard Duke of *York* made Prorex, and afterwards he loſt his head, 68.

Right, the Author's deſign in this Controverſy is only to conſider the point of *Right*, 4.

Robert the Emperour ſold many places, which belonged to the Empire, 66.

Robert Son of the Conquerour his behavionr towards his Father, and his caſe conſider'd 361, 362.

Robert King of *Naples*, the example brought by *Doleman* from his being preferr'd by the Pope contrary to the Right of Repreſentation, examin'd, 312. The ſame *Robert* condemn'd that very decree of the Pope in two Inſtances, *Ibid.*

Rodolphus the Emperour ſold off ſome Cities belonging to the Empire, 66.

Rodolphus Duke of *Suabia* his Rebellion and deſerv'd puniſhment for it from the hand of God, 195.

Rollo the firſt founder of the *Norman* Monarchy, he deriv'd not his power from the people, 149.

Romans, what evils their changing their Government brought upon them, 171. How they uſed their conquer'd Provinces, 389, 390, 391. Their way of making a Law during the Commonwealth, 211. Their ſtrange cuſtom in chooſing a new Pope, 36.

The Roman Emperours adopted their Succeſſors, 403.

Romulus the founder of *Rome* and it's Monarchy, 148. His Character and Actions, and he preferr'd before *Numa*, 171.

Royal blood admits of no Contamination or defect, 296, 297.

The CONTENTS.

S.

THE *Salick* Law was not from the people, 164. It cannot be alter'd, 133.

Sancius, that dethron'd his Father *Alphonsus* X. his true Character, 177.

Sancius King of *Portugal* was not depos'd, 178.

Saul was not depriv'd by the People as *Doleman* falsely affirms, 170.

Saxons the occasion of their setling in *Britain* and destroying the *Brutains*, 85.

Saxony, the Duke of *Saxony* ill us'd, 65.

Scotland, is the most ancient Kingdom in *Europe*, 425. The subduing of *Scotland* attempted in vain by the *English*, 426. Of the two Kingdoms in *Scotland*, 428. The arts of the Clergy of *Scotland* to hinder the union of the two Kingdoms, 348.

The *Scots* not reputed foreigners in *England*, 263. 'Tis provided by a Statute that the *Scots* should have the same privileges with the *English*, 265. That Statute extant among the Laws of *Edward* the Confessor, 266, 267, 268. The meaning of that Statute, 269. The *Scots* maintain'd an inviolate friendship with the *English* and assisted them against the *Danes*, 270. And therefore were made Denizons of *England*; and had the Northern Provinces given them, *ibid.* That Law was confirm'd by the *Conquerour*, 271. An objection against this answer'd, 272. The *English* who assert that *Scotland* is within the Jurisdiction of *England*, ought not to be heard in Law when they plead that they are foreigners, 299. The *Scots* were declar'd by the Judges of *England*, sitting in Judgment to be Citizens of *England*, 302. The Feudal Law has place in *Scotland*, 255, 431.

The *Scots* their behaviour towards the *Romans* consider'd, 356. Their friendship with the *French* and *Danes*, 357. An objection, as if the *Scots* were a turbulent Nation, answer'd, 426, 429. The King of *Scots* preferable to all others, supposing he had no right to the Succession, 424. The *Scots* make use of the same Language and Laws with *England*, 431. Many great Families in *Scotland* are deriv'd from the *English*, 422. 100000 *Scots* brought into the field by their King to oppose *Henry* III. 353.

Selimus I. Emperour of the *Turks* murder'd his Father, Brothers and Nephews, 95.

Silence when our Country is in Danger is a heinous crime, 2.

Sisenandus, his usurpation, fratricide, and ill Government, 94.

Slave, when advanced to Magistracy becomes a free man, 297.

Society, The first Societies of men were in Families, 14.

Somerset, that house guilty of treason, 336.

A Sovereign Prince has no Superior, nor the Crown, 297.

Spain, The Laws concerning the Succession unalterable in *Spain*, 127. Hereditary Succession settled in *Spain* by King *Pelagius*, 150. The Kings of *Spain* divorced their Wives by their own Authority, 384. The miseries of *Sicily*, *Naples* and *Milan* under the Government of *Spain*, 293. Instances of the cruelty and avarice of the *Spaniards* in *America*, *ibid*, and in *Flanders*, 394. What the English might expect from a *Spanish* Government, 395. The appointing a Successor customary in *Spain*, 403.

Spanish Armado strangely destroy'd, 333.

Sparta, the people of *Sparta* would not acknowledge *Leontichides*, because it would have prejudiced the right Heir of the Kingdom, 127.

Stanley, his great service to *Henry* VII. and what return was made him, 65.

Stephen's being preferr'd to the Kingdom of *England* before the true Heir of it, occasion'd bloody Wars and great mischief to that Kingdom, 88, 89. He granted away the Crown Lands, and destroy'd it's Revenue, 63.

Strangers have had the privileges of free Citizens allow'd in many Kingdoms and Common-wealths, 270.

Subjects are obliged to be faithful to their Kings, tho' they Swear no Oath of Allegiance 206. They cannot be the accusers of their King, 193. The only Case, wherein a King may be disowned by his Subjects, is when he Un-Kings himself, 202.

Success, the most wicked deeds have sometimes been attended with success, 168, 169.

Succession attended with greater advantages than Election, 208.

Succession, It concerns the Queen chiefly not to leave the Succession undetermin'd, 2. Succession not attended with the imputation of ungratitude and perfidiousness in the people, 70. The People obey most easily a Government they have been accustomed to, 71. The rights of Succession can hardly be discontinued, 71. In Succession the same friendships and alliances continue, *ibid.* Where Succession obtains there is no place for ambition, 72. Nor for Competitors or Rivals, 72. The Lawyers prefer Succession to Election, 76. Succession once establish'd cannot be alter'd by the people, 78. Whether Succession, in Kingdoms was instituted by God, 96. Succession of Children to their Father's Kingdoms prov'd from the sacred History, 97. Hereditary Kingdoms instituted by God, 98. God appointed two Orders for Government among his own people the Sacerdotal and the Regal, and both to be Hereditary, *ibid.* A perpetual Law concerning Succession, from God by *Moses*, 99. The settled Order of Succession respects the Royal Family as well as private families, *ibid*, In *Gideon*'s days Kingdoms were Hereditary, *&c.* 100. *Saul* reckon'd his Kingdom to be Hereditary, *ibid.* The Kingdom was Hereditary to the House

House of *David*, 101. God threatens it as a judgment on wicked Kings, that they shall have none to succeed them, *ibid.* The Succession in the Kingdom belong'd to the *first born*, 102. The Collateral Succession in Kingdoms, *ibid.* The Heir's being under age hinders not his Succession in the Kingdom, 103. Difference between the Kingdoms of *Judah* and *Israel*, the first being Hereditary the other Elective, *ibid.* Greater prosperity attends Successory than Elective Kingdoms, 104. Arguments from the New Testament for Kingdoms being Hereditary, *ibid.* From the Gospel of St. *Matthew*, from *Rom.* viii, &c. 105. An objection answer'd, 106.

Succession derives from the Law of Nature 107. The care that Parents take is chiefly with respect to their Posterity, 108. The sense of the Lawyers in this point, *ibid*, and 109, 110. Succession in Kingdoms from the Law of Nature. *Perseus*'s remarkable speech shows Succession to be from the Law of Nature, 111. Natural affection makes Parents careful of their Succession, *ibid.*

Succession in a Monarchy is from the Law of Nations, 112. Succession by the Law of the XII. *Tables*, 113. By the *Jus prætorium*, *ibid.* By the *Jus Cæsareum*, *ibid.* And obtain'd anciently in all Kingdoms, 114, 115, 116. Changing the Succession ruin'd *Sparta* 114. Succession by the Law of Nations not only to descendants in a straight Line but also to Collaterals, 116. Hereditary Succession took place in Christian Kingdoms, 117.

The Hereditary Succession of a Kingdom rightfully belonging to any person can neither be taken away by Prince nor people, 120. First, Because no power on Earth can dispense with the Laws of God, *ibid.* The rights of Succession are divine, 121. Second, Natural Rights, which include those of Succession, cannot be disannull'd by a Prince, 122. Third, Because Princes are under the obligation of the Law of Nations, 123. Fourth, A Prince cannot annull the positive Laws concerning Succession, *ibid.* A reason from the Municipal Law why a Prince cannot disannull the Right of Succession, that is by that Law, 124. Another reason because Kingdoms are given by God, and the Prince is God's delegate, and bound to do justice confirm'd by Scriptures, and the reasons and Authority of Laws and Lawyers, 124, 125, 126. The Laws of Succession immutable in *France*, *Spain* and *England*, 127. The *English* affirm that the Statutes of *France* cannot take away the King of *England*'s right of Succession to *France*, 128. Immutable or Fundamental Laws not to be alter'd, of those the Succession is one, 129. His Inference, the rights of Succession are to be kept inviolate, *ibid.*

The Succession is not alterable by Queen *Elizabeth*, even tho' the Parliament had consented to her doing it, 130. An objection answer'd, *ibid.* His Reasons, Because a power to appoint the Successor in a Kingdom is too extravagant for any to pretend to, 131. The appointing any Successor besides the true heir is the same thing with Election, 132. Her Successor might claim the same privilege, *ibid.* The Author considers what power the Parliament could give the Queen, with relation to her Successor, *ibid.* The Queen, says he, cannot with the Consent of the Parliament annull the fundamental Laws of the Kingdom, 133. As the King of *France*, cannot with the Estates annull the *Salic Law*, *ibid.* such as owe their Succession to a Statute cannot be called Natural Princes, 134. The Invalidity of Parliamentary Statutes with respect to Succession, *ibid.* The power of appointing a Successor infers the power of Alienating the Kingdom, *ibid.* Which can never be admitted as contrary to all Law and Justice. That Clause by which *Henry* VIII. was empower'd to name his Successor, is to be construed according to Justice and Equity, *ibid*, and 136. The disposing of a Kingdom by a Last Will was look'd upon as a wonder, 137. The Kings of *Portugal* cannot alienate any part of their Furniture on their death bed, *ibid.* Had *Henry* VIII. appointed any Successor besides the true Heir he had acted contrary to the express intention of them that empower'd him, *ibid*, 137. The Queen bound by her Oath not to appoint any besides the true Successor, as also by the Oaths of her Predecessors whose Heir she is, 138, 141. The Nobility and People of *England* are bound by their Oath of Allegiance not to admit of any Successor besides the true Heir, 139. The Subjects of *England* did constantly since the Conquest swear Allegiance to their Kings and to their Heirs, *ibid.* Of which the Author gives the Instances, 140, 141. Heirs are bound to perform the Oaths of their Parents, and the first Oath is always to be kept, *ibid.*

The immediate Successor is King even before he be chosen by the people, 206. And before he is Crown'd, 209.

The right of Succession not hindred by some kind of Election, 211.

No greater offence against God than excluding the Lawful Successor from his Inheritance, 225.

Succession of *England*, and who by its Municipal Law, should have it, 245. Two ways of Succeeding in *England*, *ibid*, and 246, 247, 248. The Author makes appear that the incapacities, which hinder the Succession of private Heirs do not affect the Heir of the Crown, *ibid.* A general maxime as to the Succession of the Crown, 148. Whether or not the Second Son by the Grandfather is to be preferr'd in the Succession to the Grandson, by the Eldest Son deceas'd? 307, 308, 309, 310, 311. The

The Crimes of Parents cannot hinder the Succeſſion of their Children, 366, 367.

Concerning the expediency of nominating a Succeſſor during the life of a King, 399. Arguments againſt it *Ibid.* It is not always for the welfare of the poſſeſſor or of the Succeſſor, 400. The temptation it gives the Succeſſor of wiſhing the Death of the poſſeſſor, 400. Reaſons for declaring the Succeſſor. 1. It is for the ſafety of the people, 401, 2. It prevents diſputes, *Ibid.* The example of *Henry* the laſt King of *Portugal* 401. The Queen ſeems concern'd to do it in return to the dutifull behaviour of her Subjects to her, *Ibid.* Examples from the Sacred Hiſtory, 402. The uncertainty of the Succeſſor the cauſe of Innumerable calamities to a Kingdom, 403, 408. The cuſtom of the Kings of *Perſia* in relation to their Succeſſors, and of the *Roman* Emperours, *Ibid.* Of *Spain*, *France* and *England*, 404. And even in Elective Monarchies ſome care is taken to appoint a Succeſſor, 405. The Judgment of *Henry* VIII. in relation to the ſettling the affair of the Succeſſor, *Ibid.* and 406. An objection againſt it, from people's looking to the riſing Sun, anſwer'd, 409.

Sweden was hereditary untill *Chriſtern* II. 119. That Kingdom was ſeiz'd by *Guſtavus Erickſon*, 39.

Swinford, *Catharine Swinford*'s Children to the Duke of *Lancaſter* legitimated by the ſubſequent Marriage, the Kings authority, an Act of Parliament, 382, that affair enquir'd into 376, to 383.

Sun, Sons of the Sun what meant by them, 415. The riſing Sun, 409.

Sylla during his *dictatorſhip* extinguiſh'd the flames of Civil Wars with the blood of the Citizens, 41.

T

Tares, *Peter Tares* choſen King of *Aragon* his ſtory and unaccountable behaviour after his Election, 58.

Tarquin ſuffer'd for his Son's fault, 171. He was not Lawful King of the *Romans*, 172.

Thebes an hereditary Kingdom, 116.

Theodoſius Emperour his ſaying, 127.

Theſeus the founder of a Kingdom had not his power from the People, 148.

Tomumbey Sultan of *Ægypt* killed, 60.

Trajan ſome account of that Emperour, 204.

Treaſon in the Heir of the Crown does not hinder his Succeſſion to it, 295, 296. Crimes committed againſt hereditary Kings before their Coronation are treaſon, 200, 204.

Tribunes, the Election of the Tribunes during the Commonwealth of *Rome*, 80.

Turks the violation of the right of *Primogeniture*, the cauſe of ſo many Parricides and Fratricides among them, 95.

Tyrant, the difference between a King and a Tyrant, 186.

V

Vaſſal, 'Tis beſt for the Vaſſal that the Dominion and property be in the King 154.

Venceſlaus Son of *Charles* IV. Emperour was choſen King of the *Romans* for a great Sum of Money given by his Father to the Electors, 51. For payment of which Sum the Regalia were given to the Electors, the Imperial Towns purchas'd their freedom, and the Revenues of the Empire were loſt, 63.

Veremundus reſtor'd the Kingdom to the true Heir, 214.

Viceroy, a King may have a *Viceroy* but a Kingdom cannot, 37.

Vortigern's Counſel for bringing in the *Saxons* to aſſiſt the *Britains* fatal to them, 85.

U

UNion of the Kingdoms whether their Union would be profitable for *England*? 346. The *Engliſh* earneſtly deſired an Union with *Scotland*, 347. The *Scots* Clergy obſtructed it, 348. The Protector's Letter to the *Scots* preſs'd an union very pathetically and with ſtrong Arguments, *ibid.* The *Scots* could not be compell'd even by their Soveraign to fight againſt *England*, 349. The Union would add much to the ſtrength of *Britain*, 350. The ſame good diſpoſition in both Nations towards a mutual friendſhip, 353. Reaſons for that Union from the continual friendſhip between the two Nations before the reign of *Edward* the firſt, and before the Conqueſt, 354. Some ſignal Inſtances of mutual humanity, generoſity and fidelity between the two Nations in *Britain* not to be parallell'd in Hiſtory, 355. The Wars between the two Nations owing to *Edward* I. his claiming homage for *Scotland*, 356. The objection from the behaviour of the *Scots* towards the *Romans* conſider'd, 356. As alſo from their Friendſhip with the *French* and *Danes*, 357. The Kings of *England* often endeavour'd to unite all *Britain*, 364. The providence of God remarkable with regard to the union of *Britain*, 419. The Union oppos'd by *Francis* I. King of *France*, 421.

Unjuſt, none ought to attempt an unjuſt thing from any opinion of his own ſtrength, 423.

Unjuſt deeds have oft times been Succeſsful, 168, 169.

Urſi-

Vrſicinus, the Conteſt between *Damaſus* and him occaſion'd great bloodſhed in *Rome*, 34.

W

Wales ſometimes divided into independent principalities, 428.

War, the miſeries of Civil Wars, 422. The fatal conſequences of them not diſcerned at firſt, *ibid.*

Warwick, the Earl of that name advanced to the Throne, and afterwards defeated King *Edward* IV. 68.

William the *Conquerour* had not the Kingdom from the people, 149. He confirmed the Laws of *Edward*, the Confeſſor, and conſequently allow'd the *Scots* the privileges of *Engliſh* Subjects, 271. The paſſing by the right Heir of the Crown gave him opportunity to Conquer *England*, 87, 88. How he uſed the *Engliſh*, *ibid.* He could diſpoſe of his Conqueſt to whom he pleas'd both by the Laws of *France* and *England*, 362. His Son *Robert*'s behaviour towards him, *ibid.*

Women, of a Woman's being Heir of a Kingdom, 26. Of the Suceſſion of Women or Female *Heirs*, They are not excluded from inheriting either by the Divine, Natural or Civil Law, 83. *Zelophehad*'s Daughters, *Debora*, *Salome* brought for Inſtances, *ibid.* Women were allow'd to ſucceed by the Laws of the XII tables, 84. They did ſucceed in *Spain*, *England*, and were allow'd to be Regents tho' they could not inherite the Crown of *France*, *ibid.* Women were Tutors and Adminiſtrators, *ibid.* Whether a Woman or a Man in the ſame degree is to be preferr'd in Succeſſion? 335.

Will, Laſt Will pretended to be *Henry* Eighth's, forg'd by *Clark*, 344. Cancell'd by the Parliament and expunged out of the Regiſter, 345. *Edward* Sixth's laſt will could not take effect againſt the next Heir, 127. The diſpoſing of a Kingdom by a Laſt Will was look'd upon as a wonder, 137. Of the Statute whereby *Henry* VIII. was enabled to appoint his Succeſſor by his Laſt Will, ſee *Henry* VIII.

X

Xerxes, the conteſt between him and *Artabazanes*, 363.

Xenophon commanded the *Perſian Army*, 93. A remarkable example from him with relation to what is juſt, and what is expedient, 387.

Y

York, The right of the Houſe of *York* confirm'd by two Parliaments, 307.

The *Family* of *York* vindicated, 336.

The line of *York* or *Mortimer*, 375.

The Conteſt between *York* and *Lancaſter* very fatal to *England*, 90, 92. The attainder of the Houſe of *York*, 369.

Youth, ſometimes a diſſolute Youth becomes a good man, 211.

Z

Zechary Pope of *Rome* made *Pepin* ſwear to be obſervant of that See, 204.

ERRATA.

PAge 7, line 29, read *Societas*. p. 50, l. 29, r. *diſgraceful*. p. 107, l. 23, r. [illegible] p. 151, l. 31, dele. *ſuch*. p. 185, l. 27. dele. *with*. p. 183, l. 26, r. *feret*. p. 255, l. 22, r. *pacem*. p. 255, l. 24, r. *fidem* inſtead of *pacem* p. 314, l. 40, d. *not*. p. 336, l. 7, d. *Soveraign*. p. 358, l. 48. r. *principles*. p. 356, l. ult. put *if* before *all*. p. 376, l. 10, for *Officer* r. *Knight*. p. 390, l. 26, for *property* r. *poverty*. p. 425, l. 3, d. *in*.

MVSEVM
BRITANNICVM

Bp — 14
Oath — 14
Arbitration — 15
Bp of Winchester: 15
Ingratitude: 15
Parliam: 69:
Impresonm by Edward 69:
Fornication: 69:
Sacrilege 69:
Execution: 77.
Dran Hering: 96: 97: 98:
Publicity no kindreds in Succession — — 103
Animals defend their young to ye loss of their own lives — — 107:
Salick Law denyed 110: 113:
Ye Scots would borrow any Such Law was made in Armed only prohibit: 164 200
Armes & England had not their power or Right from ye Pope & — 113 192
Changing ye Right of Succession dangerous 114: 117: 118: 119:
King Edward for Cyprus — — 118: 119: 162: 170: 173: 174:
Forged Wills: 131: 343: 344:
Kings with Consent — or Parliam: cantabrigiens 134
ye City of London —
Ye first Cathall weh to be Bp: 141:
Caesar in, no Lawfull King 169: 171: 172:
Ne Sier for Kings to have ye Crown in his — — 180:
Law: 183:
A Tyrant: 186
what is it
How great generally & Some Kings deserted 190
Who shall try a King: 192:
ye Original of this: 193
Neither Mahomet himself nor Magnus Crucifix ye Successor 196
or King in profession
A King may be deposed: 202:
All Kings do not swear Oath to ye People — 203
Form when ye Coronation Oath drawn — 205
How Some Kings have been Cast out of ye World — 222
Ye Scotch title Cleared by Same Laws & prior Edgs with ye English — 262 302
Very made Dom: of Engl: & had Cumber: Westmor: & Northumberland given ye 1st 270
Confirmed by Wm ye Conqueror 271
Peerage, or Hereditary Right of Succession 281
Mean Births made Emperors: 295:
Northumberland given as a Dowry to David K: of Scotl 306
Extraordinary punishm: for Extr: wicked Kings — 333
Irish Earl: 340: 349: 350
Union of Scotland: 340:
Scotland mighty populous: 341
Some Bath: with Scotl: 355 356:
A famous wall built in Scotland — 356
The Power of a Lord of a Manor — 192: 376:
The States in parli: Godfred K: — 390: 2:
Contrary to ye Law of God for 2 Brothers marry one Sister, or 2 Sisters to marry one Man in Hand 393
Sicilian & English Wars all their Armes & Device 392
Lent Lord in one Night
A Monstrous Child — 414
Sons not Inherit their Fathers Sins 396:
The Bull for Bp marriages 415
Ye first Abdicated: 419
Generall Councils — made, Emperors & Kings 39:

